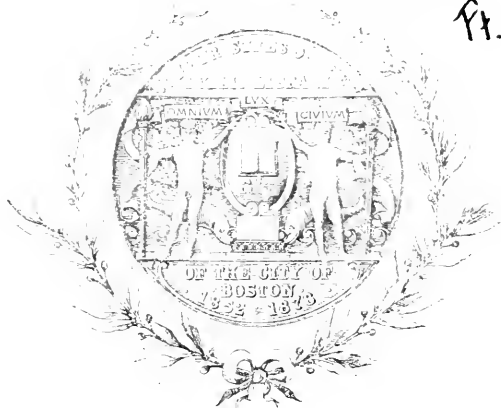




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# LABOR RELATIONS

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## HEARINGS

BEFORE THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

EIGHTY-FIRST CONGRESS

FIRST SESSION

ON

### S. 249

A BILL TO DIMINISH THE CAUSES OF LABOR DISPUTES

BURDENING OR OBSTRUCTING INTERSTATE

AND FOREIGN COMMERCE, AND

FOR OTHER PURPOSES

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PART 3

FEBRUARY 8, 9, AND 10, 1949

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Printed for the use of the Committee on Labor and Public Welfare



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Printed for the use of the Committee on Labor and Public Welfare



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1949

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## LABOR RELATIONS

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TUESDAY, FEBRUARY 8, 1949

UNITED STATES SENATE,  
COMMITTEE ON LABOR AND PUBLIC WELFARE,  
*Washington, D. C.*

The committee met, pursuant to adjournment, at 9:30 a. m. in the committee room, United States Capitol, Hon. Elbert D. Thomas (chairman) presiding.

Present: Senators Thomas (Chairman), Murray, Pepper, Neely, Douglas, Humphrey, Withers, Taft, Aiken, Smith, Morse, and Donnell.

The CHAIRMAN. We will go on with Mr. Denham. He is not well; he has already made a preliminary statement.

Senator DONNELL. Before Mr. Denham starts, Mr. Chairman, I offer for the record an editorial appearing in this morning's Washington Post, entitled "More Haste, Less Speed."

The CHAIRMAN. Without objection, it will be included in the record. (The editorial referred to follows:)

### MORE HASTE, LESS SPEED

If the Senate Labor Committee holds to its announced schedule, hearings on the proposed substitute for the Taft-Hartley Act will close on Thursday. It is now unmistakably evident that the committee cannot in the next 3 days hear more than a small fraction of the witnesses demanding an opportunity to state their views. Nor will it have before it all the information it will need for the delicate task of rewriting the law controlling labor-management relations. A Senate committee cannot act on so momentous an issue with such haste without opening itself to the charge of substituting the rubber stamp for full inquiry and legislative deliberation.

This unreasonable haste will not work to the advantage of labor, the administration, or the committee. No organic labor-management legislation can work well or last long unless it wins general public support, and that will be forthcoming only if the public believes that the legislation has been shaped with deliberation and in a spirit of sensible compromise. The administration ought to be aware of the fact that legislative tempers are already frayed because of this unreasonable haste. Thus the Executive-legislative unity that is so essential to carrying out the President's program is in danger of being undermined for no good reason. Another week or 10 days of hearings would go a long way toward convincing both legislators and the people that the administration is seeking legislation in the public interest and not merely to pay a political debt.

The CHAIRMAN. Mr. Denham, you made your preliminary statement yesterday. We will let Senator Taft start with you this morning.

### STATEMENT OF HON. ROBERT N. DENHAM, GENERAL COUNSEL, NATIONAL LABOR RELATIONS BOARD—Resumed

Senator TAFT. Mr. Denham, you have been in charge of the Office of the General Counsel, and I notice in your statement you say that in 16 months ending December 31, 1948, you handled some 56,000

cases of all sorts, of which slightly under 8,000 were complaint cases, 12,000 with representation cases, and approximately 36,000 were union security election cases.

I will omit the union security election cases because everybody seems to be agreed that that particular provision should now be repealed, and it would be unnecessary to consider that point further.

Mr. DENHAM. I am in complete agreement with that.

Senator TAFT. You are in complete agreement with that proposal?

Mr. DENHAM. Yes, sir.

Senator TAFT. These 8,000 complaint cases were cases on the part of employer and employee alleging unfair practices on the part of the other, is that it?

Mr. DENHAM. I can give you the break-down of them.

Senator TAFT. Yes; I would like to know that.

Mr. DENHAM. There are 7,827 as of the first of the year. Of those, 2,093 were hold-over complaint cases from the Wagner Act days. There were 4,460 cases that represented charges filed against employers, some by unions, and some by individuals.

There were 796 cases filed against labor organizations, roughly half by individuals and half by employers.

There were 379 cases that fell into that class which, if they were meritorious, would have required petitions for mandatory injunctions under section 8 (b) (4), and there were 96 cases that came under the heading of jurisdictional disputes under the provision of section 8 (b) (4) (D).

Senator TAFT. Have you now had quite an extensive experience in nearly all of the different unfair labor practices charged?

Mr. DENHAM. I feel that I have, sir, when you combine 10 years of trial examining and the very intensive operations that we have had in the last 16 months, I feel that I could say that I have had a fairly extensive experience.

Senator TAFT. I would think so.

Well, the Board, I remember, testified that they had only—Mr. Herzog, I think, testified—they had only passed on nine cases altogether themselves.

Mr. DENHAM. That is approximately correct. The greater number have come under my jurisdiction, but represent cases not yet decided by the Board.

Senator TAFT. As compared to that experience you have had hundreds, almost thousands, of cases to consider yourself, I suppose, in the initial stages?

Mr. DENHAM. I might say, Senator, that under our procedure and under the old Wagner Act procedure, the regional directors were given a great deal of autonomy in their determination as to the merits of the case, and as to whether a complaint should be issued.

At the beginning of the administration of the present act, in order that we could make sure that a consistent line of policy would be followed, we required the regional directors to submit all of their cases into Washington before issuing complaints.

We wanted to make sure that they did not get out of bounds. That continued for some several months. Obviously, I personally did not examine all of the files. I had a staff of highly experienced persons to do that, and then they would reduce the facts down to concise language, and give them to me with their recommendations.



I would study them and pass on them in that fashion. As time went on and as lines began to develop clearly, more autonomy was given to the regional directors, and that was rather rapidly passed on to them with reference to those cases which represented charges against employers falling under section 8 (a) of the act.

Senator TAFT. That section 8 (a), in general, covered simply renewed provisions of the Wagner Act?

Mr. DENHAM. Yes, sir; that was a carry-over of the Wagner Act provisions, and the general principles remained the same.

The regional directors remained the same, and they knew what it was all about, and we did not feel that they had to have that same close supervision.

Then, as time went on, we gave them a little more freedom of action with reference to what we called the CB cases. Those are the cases in the charges against unions that do not fall within the area of section 8 (b) (4), which covers the jurisdictional-dispute cases. But that still has not been wholly released to them.

The result was that there have been a great number of cases which have been sent into Washington by the regional directors for advice as to policy matters. That has been studied and has been sent on back to the regions.

The charges alleging a violation of section 8 (b) (4) of the act are required to come into Washington for study and advice, since, as you know, these are the type of cases requiring a mandatory injunction if a complaint should issue. I think most of the cases coming to my attention are those involving appeals from decisions of regional directors not to issue complaints. In those cases, I have made the final decision, either sustaining or overruling the regional director's position. Within that area of cases which I have described, we have hit pretty nearly everything.

Senator TAFT. You have hit pretty nearly everything under the act, all the different unfair labor practices?

Mr. DENHAM. I feel that we made better than a spot coverage of them.

Senator TAFT. Just to get into the record a clear statement of what this division of power is—I do not want to discuss nor to ask you to argue the question—of whom do you have charge? What is your function as against the Board if an unfair labor practice is filed, or in a representation case? Is that within the jurisdiction of the people whom you direct?

Mr. DENHAM. By virtue of the combination of the statutory provisions and the delegation agreement which we found it necessary to work out, that is, the Board and I found it necessary to work out, everything that occurs in the field is within the jurisdiction of the general counsel, all the personnel and all the things that occur in the various regional and subregional offices.

Senator TAFT. Does not the Board have examiners, however, in the field?

Mr. DENHAM. No, sir; no.

Senator TAFT. To take testimony?

Mr. DENHAM. All the examiners are under—I am not talking about the trial examiners. They are the judges, they are part of the judicial side and sit as judges. But when a representation petition, for instance, is filed, it is filed in one of the field offices.

Now, in analyzing the act, we noted that the General Counsel was given exclusive jurisdiction over the issuance of complaints, final authority over the issuance of complaints, but the question of handling of representation cases was left open; the statute was silent on that, and we naturally assumed that the Congress intended that the Board would continue to handle the representation cases, as it has in the past.

But all of the work in the handling of representation cases, except that which is of a decisional quality, is performed in the field.

Senator TAFT. That work on representation cases is, to a certain extent, merely—I mean, it is a procedure which does not involve a great exercise of discretion, does it? Is it not usually the question of whether you have an election, and then an election is held?

Mr. DENHAM. No; it requires considerable exercise of discretion. The first thing that happens when a petition is filed is an effort on the part of the regional office, the regional director, and those working under him, to get the parties together and see if they cannot agree on what constitutes an appropriate unit, and in a normal consent agreement the regional director conducts the election.

It necessitates some inquiry by the field examiner who conducts these conferences, as to the nature and character of the business done by the employer, so as to determine whether his business is one which has an effect on commerce within the meaning of that term.

Having arrived at a conclusion that the statutory jurisdiction is present, then they attempt to work out one of these consent election agreements.

I may say that in, oh, a perfectly tremendous percentage of cases that effort is successful. I am sorry I do not have the exact number, except I know that it is overwhelming. There are some cases, however, where the parties are not able to agree upon the constitution of the unit.

Senator TAFT. When there is an election that practically settles the question. Somebody is chosen as the bargaining representative and the representation case is over, is that right?

Mr. DENHAM. Yes, sir; they agree to the election and they, in these consent agreements, the normal consent agreement is that the regional director shall conduct the election. Any questions that may arise as to eligibility or anything of that sort will be decided with complete finality by the regional director.

They never come to Washington. The election is then held in accordance with the agreement, and as the results determine the election, if it is so certified by the regional director, that is the end of it.

If, however, the parties are not able to agree on anything, or if there is an intervenor who says, "I have got a contract which is a bar to this election," those things are matters that are not disposed of by agreement. So, it then becomes necessary for the field office to make some investigation of the pay roll, to find out just what the facts are concerning the work performed by the various people in order to determine what constitutes an appropriate unit for bargaining purposes.

Also he makes his investigation with reference to this claim of a contract bar, and there are other things that could possibly stand as a bar to the holding of the election; and, of course, under the present law, if the intervenor is not in compliance with the filing require-

ments of the statute, it has no standing, except if it has a current contract, then it is allowed to participate to protect its contract.

Senator TAFT. Then, roughly speaking, when some party is dissatisfied with the decision of the regional director, he has a right to appeal to the Board, has he, first to you?

Mr. DENHAM. Not as a result of the consent election agreement.

Senator TAFT. No; but I mean, suppose there is a contest.

Mr. DENHAM. Then he can appeal to the Board. It doesn't come to the general counsel.

Senator TAFT. I see.

Mr. DENHAM. The Board is the determining authority on that.

Senator TAFT. And the Board can overrule any action taken by the regional attorney?

Mr. DENHAM. Oh, yes.

Senator TAFT. And they have the final word on the question?

Mr. DENHAM. That is quite true; yes, sir.

Senator TAFT. There might be an appeal to the court on some provision of the law, I suppose?

Mr. DENHAM. Well, the appeal to the court would only come in connection with some unfair labor practice that might come out of it.

Senator TAFT. There is no appeal in representation cases?

Mr. DENHAM. That is right. The representation proceeding is an administrative proceeding. It has been so held by the courts.

Senator TAFT. And as far as the act is concerned, it was not very clearly defined as to who handled it, and you simply were given charge of that handling of it in the field because you had your men there?

Mr. DENHAM. Oh, yes.

Senator TAFT. And the Board would have had to set up a new, an extra series of men, if they had undertaken—

Mr. DENHAM. Quite right, sir. The major portion of our men are in the field and they are experienced; they have been doing it for years; they are, perhaps, the most experienced election conductors that there are. They are the most experienced of any agency that I know. Whether 10 persons or 25 or 50, or 75,000 or 100,000 people are involved, they still do a good job. The Board wanted to use the services of those people.

It is entirely proper that they should, and that was included in the delegation of power.

Senator TAFT. And they reserve the final right to pass upon it?

Mr. DENHAM. Absolutely; that is true.

Senator TAFT. Now, going to the unfair labor practices, either employer or employee, what happens when someone desires to file a charge? Do they file it with your office or with the regional office?

Mr. DENHAM. They are filed in the regional office.

Senator TAFT. In the regional office?

Mr. DENHAM. Yes, sir.

Senator TAFT. And the question of whether or not there is a prima facie case—what is the first action that you would take? Do you make an examination to see if there is a case, or what do you do?

Mr. DENHAM. I may go back a little bit. When this act went into effect the Wagner Act had been on the books for a long time, and a number of practices had grown up which were dilatory and encouraged obstructionism. That was particularly true where there was

a contest in a representation case, and one labor organization might feel that it was not quite strong enough to go to bat at this particular time, but they were faced with an oncoming election and they cooked up some kind of a charge and filed it.

The Board had a rule, and still has the rule——

Senator TAFT. Charge against an employer?

Mr. DENHAM. Yes, sir. The Board had a rule and still has that rule, that where there is an unsatisfied and undisposed-of charge or complaint or Board order against an employer, the Board will not consider a representation proceeding among the employees of that employer.

Senator TAFT. The theory being that the unfair labor charge——

Mr. DENHAM. Unless there is a waiver by the one who has filed the charge, of course.

Senator TAFT. The theory being that the employer might be helping one of the unions, and you had to eliminate that help before you could have an election?

Mr. DENHAM. That is correct. That the unfair labor practice conceivably could influence the employees in making a free choice of their bargaining agent.

So they would come in and a charge would be filed, and that would freeze the representation matters and defer them more or less indefinitely.

There are some other practices that have grown up in the field as a result of—I think Senator Morse used an expression, “transgression by accretion,” the other day which struck me as being very good—bad habits that had grown up in that manner, and the regional offices were not moving as fast as I thought they should, so the first thing we did was to say, “Now, when somebody comes in and files a charge, they should think enough of that charge to be able to bring into the office some evidence which would justify our office in going ahead and putting the machinery into motion,” to find out the true merits of the charge. That was called the famous 72-hour rule. It was not 72 hours; it was called the question of speedily requiring the charging party to bring in some evidence that would justify us in moving.

Under the old law there had grown up the old custom of labor organizations filing a charge, whereupon the field examiner would put on his hat, pick up his bag, and start off, trying to find out whether there was any merit to the charge, and trying to run it down.

Well, that was a practice I could not approve of. I thought that anyone who had a complaint should be willing to make some showing as to its merit. So, that was the first thing that was done.

Some showing being made which would indicate that we were justified in going ahead, then the field examiner to whom the case is assigned by the regional director begins his investigation.

The investigation is a rather lengthy and very thorough affair. He goes into everything that he can think of that might have a bearing on the case, either from the side of the charging party or the other. He confers with the respondent, tries to find out what their attitude is, tries to get all the facts together so that the field attorney can have something that he can appraise, and determine whether there is a provable, sustainable evidence of violation of the law there.

At some stage during the progress of this investigation the chief law officer will assign a field attorney to work with the field examiner.

Most of the field examiners are not lawyers, and we feel that the field examiner should have the benefit of the legal training of the field attorneys so that he can recognize evidence when he sees it, and its value, and whether it is admissible, and so forth.

So, they work together in that fashion until they have exhausted what they conceive to be the facts in the case.

They arrive at their conclusion and report it to the regional director with recommendations either that the charge be dismissed or that a complaint issue.

Senator TAFT. Now, that is done whether the complaint is filed by the employer or by the employee.

Mr. DENHAM. It does not make any difference. They all receive the same kind of treatment.

Senator TAFT. I think you testified that about three-fourths or four-fifths of the complaints were still filed by unions under the provisions of the Wagner Act.

Mr. DENHAM. By unions and individuals.

Senator TAFT. By unions and individuals, under provisions of 8 (a) as against 8 (b).

Mr. DENHAM. That is so.

Senator TAFT. About one-fourth of the charges are filed under 8 (b); is that it?

Mr. DENHAM. That is correct.

Senator TAFT. Then if you find the charge that is filed, to be justified, charging an unfair labor practice, you then issue a cease-and-desist order?

Mr. DENHAM. We do not issue anything except the complaint.

Senator TAFT. You issue a complaint?

Mr. DENHAM. Yes, sir; we are prosecuting arm of the agency, and having determined that there is a violation, that there is evidence that will support the case, evidence that we can present to a trial examiner, with the feeling of assurance that he is going to receive it and consider it in the same light that we look upon it, we then prepared to issue a complaint.

Now, we do not just automatically issue the complaint, because with the complaint must go a notice of hearing, and the date of the hearing is dependent upon the availability of a trial examiner.

Senator TAFT. The trial examiner is a representative of the Board, of the judicial end of it?

Mr. DENHAM. He is the judicial end. The trial examiner is the trial judge, and I may say that the hearings which are conducted by the trial examiners are conducted with all of the dignity and all of the force and all of the attention to the proprieties and ethics of the rules of courts, and the rules of evidence that you will find in most of the courts of the land.

Senator DONNELL. Senator, May I ask who it is that appoints the trial examiners?

Mr. DENHAM. I beg pardon?

Senator DONNELL. Who is it that appoints the trial examiners, please, sir?

Mr. DENHAM. The trial examiners?

Senator DONNELL. Yes.

Mr. DENHAM. They come through the Civil Service under the provisions of the Administrative Procedure Act. Up until a year ago last June, trial examiners were all appointed—well, they were just selected by the chief trial examiner, chiefly, with the consent and approval of the Board from wherever the chief trial examiner might be able to find them. But under the provisions of the Administrative Procedure Act, the trial examiners now must be taken from a roster set up by the Civil Service Commission under some very rigid requirements.

Senator DONNELL. Who makes the actual appointment of the trial examiners?

Mr. DENHAM. I think the Board does that in the usual fashion, if there is a vacancy to be filled.

Senator DONNELL. You do not do it, at any rate.

Mr. DENHAM. I have nothing to do with that at all. The Board does all of that.

Senator MURRAY. Will the Senator yield at this point to Senator Douglas, the Senator from Illinois?

Senator DONNELL. Yes.

Senator MORSE. Mr. Chairman, may I make a request for a 2- or 3-minute executive session outside of this room?

Senator TAFT. At this moment?

Senator MORSE. At this moment.

Senator MURRAY. Very well.

(At this point the committee retired into a short executive session, after which they returned to the committee room.)

Senator MURRAY. I understand that you yielded.

Senator TAFT. Did I yield to the Senator? I yield to the Senator from Illinois.

Senator DOUGLAS. I have to go to another committee meeting, so I have asked the privilege at this time of asking some questions.

I am very sorry to learn that you are not in good health, and I shall try to make my questions temperate in tone, and I hope you will not feel any strain when I ask them.

Mr. DENHAM. I think I can take anything that comes along.

Senator DOUGLAS. It is not given in that way.

Mr. DENHAM. Thank you a lot, Senator.

Senator DOUGLAS. You served with the old National Labor Relations Board for about 10 years prior to your appointment?

Mr. DENHAM. Yes, sir; from March 1938 up until my appointment.

Senator DOUGLAS. During that period was there not a separation between the prosecuting functions of the Board and the judicial functions of the Board? That is, was there not a separate set of trial examiners, the Board of Review, and so forth, on the one hand, to perform the judicial functions, and then a set of attorneys who prosecuted cases on the other, so was there not a separation of these functions inside the Board?

Mr. DENHAM. You cannot answer that in one word, Senator.

Senator DOUGLAS. Well, will you describe it?

Mr. DENHAM. The regional offices maintained just about the same operation, the same structure, that they have now.

Senator DOUGLAS. That is, a separation of judicial and prosecuting functions.



MR. DENHAM. They were in the offices there, the regional director was the chief, he was the boss of the show. There was a regional attorney, however, who handled the legal matters in the region. How closely the regional attorney and the regional director function, I could not tell you offhand, except that they did work together.

Senator DOUGLAS. But there was a separation.

MR. DENHAM. That was the prosecuting end.

Senator DOUGLAS. But there was a separation between the judicial branch and the prosecuting branch and the regional offices.

MR. DENHAM. There was no judicial branch in the regional office. The regional branches were purely prosecutors.

Senator DOUGLAS. What about the trial examiners?

MR. DENHAM. The trial examiners have always been a separate group even to the extent of occupying physically separated quarters.

The trial examiner, the Chief Trial Examiner, was appointed, designated by the Board; his assistants likewise were designated by the Board, I assume, on his recommendation.

The trial examiners themselves functioned independently. They were assigned to their various hearings by the Chief Trial Examiner. They went to their hearing and while there they ran their show, just like any judge would conduct a hearing or a trial over which he was presiding.

Senator DOUGLAS. You were one of those judges?

MR. DENHAM. I beg pardon?

Senator DOUGLAS. You were one of those judges?

MR. DENHAM. Yes, sir; I served in that capacity, yes, sir. After the hearing had been concluded, then if briefs were indicated, they would be filed with the trial examiner.

Senator DOUGLAS. May I ask a question? Did anyone ever in the employ of the Board approach you while you were hearing or considering a case and attempt to influence your decision?

MR. DENHAM. On only one occasion.

Senator DOUGLAS. What was that?

MR. DENHAM. That was the Chief Trial Examiner who attempted to get me to make a decision that I was unwilling to make.

Senator DOUGLAS. But no one from the prosecutor's side ever approached you?

MR. DENHAM. Oh, no, except in the same manner that any prosecutor will approach the courts.

Senator DOUGLAS. I understand.

MR. DENHAM. In the presence of—in open court and in the presence of—

Senator DOUGLAS. Was it your general impression that the trial of cases under the National Labor Relations Board was conducted fairly?

MR. DENHAM. Procedurally, yes.

Senator DOUGLAS. In spirit as well as in procedure?

MR. DENHAM. There were a number of trial examiners before whom I would not care to have to try cases.

Senator DOUGLAS. Well, that is sometimes true of the Bench itself, but did you feel there was an effort made to have the trial of a case conducted fairly?

MR. DENHAM. As I say, procedurally; yes, sir.

Senator DOUGLAS. Well, do you have any mental reservations aside from procedure?

Mr. DENHAM. I have indicated all the mental reservations that I have.

Senator DOUGLAS. When the cases got up on appeal to the National Labor Relations Board itself, what was the procedure there?

Mr. DENHAM. The trial examiner prepared his intermediate report. That was distributed. That indicated his findings of fact, his conclusions of law, and a recommended order.

Exceptions could be taken to the trial examiner's intermediate report and such exceptions could then be filed with the Board. Briefs could also be filed.

Senator DOUGLAS. Exceptions by the interested parties?

Mr. DENHAM. Yes, sir. They could be filed by any interested party. Briefs could be filed, and the parties were permitted to request the privilege of arguing orally before the Board. That privilege might or might not be granted, depending upon a lot of things.

After the briefs had been received, and if there was oral argument, after oral argument, the matter was considered by the Board. But in the meantime, and almost immediately after the issuance of the intermediate report, as I understand it, the record in the case was assigned to a member of what they called a review division.

Now, that was entirely a separate organization, functioning, as I understand it, under the direction of the Board itself.

Senator DOUGLAS. The chief difference between the Review Section then, and the situation now, is that the Review Section was then assigned to the Board as a whole, and now attorneys are assigned to specific members of the Board?

Mr. DENHAM. I do not understand that it works exactly that way. There is a similarity, but I would not say it was quite that close.

Senator TAFT. Is it not true that this Review Section operated anonymously, and that nobody ever appeared before them?

Mr. DENHAM. No one ever appeared before them. That is quite true.

Senator TAFT. And they, for all practical purposes, made up the decisions of the Board.

Mr. DENHAM. Again, in the early days I had some strong mental reservations on the subject. I think that corrected itself, to a large extent, as it went along.

Senator TAFT. In other words, referring to the early Board, the proceedings that were heard before the Board in 1939 were very much worse than they were after 1940, when the original Board was replaced?

Mr. DENHAM. Oh, very, very definitely; much worse. The corrections came as changes took place in the personnel, and with each change in personnel an improvement could be noticed.

But the Review Division would then review the record, and in latter days would review the record in the light of the intermediate report.

There were several stages of the operation in this Review Division, the ancient one that Senator Taft speaks of, which was the subject of much investigation in 1939, and it was rather hard to take. They were anonymous; they had the ear of the Board *ex parte*, and the Board had to take its concept of what the facts were, as reflected in the record, from the Review Division members.

Senator DOUGLAS. Now, wasn't the Board supposed to read the transcript of the hearings?

Mr. DENHAM. That would be a physical impossibility, sir, and the Board, I am quite certain, never read the transcript of the hearings except where there were parts that were highlighted for them to read. In the early days our hearings would run from 10 days to 4 or 5 months, and it would have been a physical impossibility for the Board to read all the transcripts when they had 40 examiners doing this work.

Senator DOUGLAS. Well, if it was a physical impossibility for them to read the transcript, they would naturally have to have someone read the transcript for them.

Mr. DENHAM. They would have to take the material from the Review Division, and they did.

Then, the Board, with the intermediate report before it, with the information that comes to them from the Review Division, would direct that a decision be written. I say now, just exactly what the internal machinery and the internal relationships were, I do not know, because I was on the outside.

Later on, however, this business of having the Review Division in a position where figuratively it could whisper in the ear of the Board members was changed.

I think that was when Dr. Leiserson came into the picture. Dr. Leiserson did not like that procedure, and said so rather openly.

Shortly after that, I was one of a group of trial examiners, who protested rather vehemently against this procedure, and eventually there came into existence a program which lasted right up to the end, of assigning the records to review attorneys.

The review attorney would then take that record and review the record in the light of the trial examiner's intermediate report.

If there was a difference of opinion between what facts were reflected in the eyes or the mind of the review attorney, and as recited by the trial examiner, it was put in a memorandum. Some of these memoranda were quite lengthy; some of them were quite short.

If there was a difference of opinion between the review attorney, and the conclusions which might have been reached by the trial examiner, as reflected in his report, that was noted.

If there were differences in the recommended order that difference or differences were noted.

A copy of the memorandum was usually given to the trial examiner, and after oral argument was heard, the trial examiner, having gone over his copy of the memorandum, having his intermediate report before him, and having found where there were differences of opinion, was prepared then to discuss these differences of opinion. The trial examiner had seen the witnesses; the reviewing attorney had read the record. Very frequently the differences of opinion turned on credibility of witnesses, and finally they worked out the procedure whereby the Board would then call what they would call their agenda meetings, and on a given day they referred to as three or four or five cases, complaint cases, say, for decision.

Around the table would be the members of the Board, and then there would be the review attorney who had reviewed the record under discussion. There usually would be the review attorney's supervisor, and

I understand that there was a supervisor for every 6 or 8 or 10—Miss Klaus here can tell you who they were better than I can—and the trial examiner would be there, and sometimes the Chief Trial Examiner would be there. These matters of difference between the memorandum of the review attorney and the decision of the trial examiner would frequently be thrashed out at length.

The Board would sit by and listen to them. They might make inquiry as to what about this, what about that, and when we got all through we were dismissed, and the Board sat down and arrived at its conclusions.

Senator DOUGLAS. May I ask a question? While the composition of the Board has changed from time to time, could it not be roughly divided into three phases: The early Madden-Smith period, the Millis-Leiserson period, and the Herzog-Houston period?

Mr. DENHAM. I would put Reilly in there some place. He occupied a pretty important part, you know.

Senator DOUGLAS. I did not intend any reflection by any omission. But now if you omit the Madden-Smith period, may I ask you this: Do you have the feeling that in the Millis-Leiserson period there was an effort to be scrupulously fair to both sides?

Mr. DENHAM. Under all the circumstances, Senator, I prefer not to have to answer that question.

Senator DOUGLAS. Well, it is a very important question.

Mr. DENHAM. I know it is. Dr. Millis was a man whom we all—for whom we had a reverent respect. Dr. Millis, in his latter days with the Board, did not seem to have the same grasp of what was necessary that he had in the early days.

Senator TAFT. May I ask a question that may develop a little bit of what I have in mind?

Senator NEELY. Pardon me, I would like to ask permission to be excused.

Senator TAFT. The testimony, as I remember, from attorneys who appeared before the Board in oral argument was that they just felt they got no consideration. The Board's mind was made up by the Review Section; the people who reviewed the thing had their minds made up, and that while the Board itself might be perfectly fair, the machinery was such that they did not think they got a square deal where they were appealing from an action which, in effect, had been determined by the Review Section before the argument took place.

Senator DOUGLAS. I should like to add also that having known Dr. Millis for 30 years, I want to say that in my judgment he was scrupulously fair and impartial in all his dealings. After this reorganization, Senator Taft, which occurred about 1940, did it not remove the objections that had been previously made?

Senator TAFT. No; they still felt they did not get the individual attention of the Board member; that is what I meant. The Board's opinion, as a whole, was made up by people whom they could not reach. That was the testimony up to the end. I do not know what Mr. Denham thinks. What does he think? Maybe he does not agree with that.

Mr. DENHAM. No, sir; I would not agree with that entirely, Senator Taft.

The changes were a little more gradual and the development cannot be divided into three sections.

Senator DOUGLAS. I understand. Life is a flow, Mr. Denham.

Mr. DENHAM. It came with the settling down process, with the elimination by various methods of certain personnel, not from the membership of the Board itself alone, but from the staff.

There was a shaking-out process that took place and with each passing year the quality of approach by the personnel improved, in my estimation.

Senator DOUGLAS. So that the Board was steadily improving in its procedures, and in your judgment, in its impartiality and so forth?

Mr. DENHAM. There was a progressive upward trend. No, I must say that I do not think it ever reached anything like perfection, but the trend was definitely upward.

Senator DOUGLAS. Of course, it is also true, is it not, that in the early stages, when so many employers fought the Board, and first declared the act unconstitutional, and then, by one means or another, tried to evade the meaning of the act, that it would be pretty hard to preserve a completely judicial attitude in the face of quite widespread opposition and sabotage? Is that not true? I mean is that not true, humanly speaking?

Mr. DENHAM. I am not—I would not want to put myself in the position of a psychologist who would answer a question of that sort.

I think a soundly judicial person can hold himself and not allow those conditions to sway or warp his judicial judgment. At least, that is what we should do, in my estimation, as a lawyer.

Senator DOUGLAS. Now may I shift the questioning a bit?

Mr. DENHAM. Certainly, sir.

Senator DOUGLAS. You are acquainted with the administrative procedures before the other quasi-judicial bodies in Government?

Mr. DENHAM. I cannot say that I am intimately acquainted with them, sir. I am not unacquainted with them.

I happened to be the president of the Conference of Trial Examiners, which is at present an organization of all the hearing examiners in the Government service.

Senator DONNELL. Pardon, Mr. Denham?

Senator DOUGLAS. In the Federal Trade Commission is there a sharp bifurcation in the various divisions of that Commission?

Mr. DENHAM. I am not familiar with it.

Senator DOUGLAS. Isn't it a fact that the attorneys in the Federal Trade Commission operate under the Commission and not as a separate staff?

Mr. DENHAM. I do not know.

Senator DONNELL. Would the Senator yield for just one question for a moment?

Senator DOUGLAS. Yes.

Senator DONNELL. Mr. Denham, you referred to being president at this time of the Association of Trial Examiners?

Mr. DENHAM. Not at this time. I was the first president, but I resigned when I became General Counsel.

Senator DONNELL. I did not know, but you were president—you were made president certainly—before you were made general counsel of the Labor-Relations Act Board under the Taft-Hartley Act?

Mr. DENHAM. Yes.

Senator DOUGLAS. Do you know the procedure before the Interstate Commerce Commission?

Mr. DENHAM. The internal procedures of these Commissions I am not familiar with. I am familiar with the trial examiners.

Senator DOUGLAS. Mr. Denham, you occupy a very leading position in administrative law in the country, and I would think that you would inevitably know by comparison what the situation is in these other bodies. Isn't it a fact that in the Interstate Commerce Commission the attorneys work under the general direction of the Interstate Commerce Commission as such, and are not a separate body?

Mr. DENHAM. It is my understanding, Senator, that that is true in the Interstate Commerce Commission and in the Federal Trade Commission, but I do not know it.

I have got much too much to do in my own show to be able to have the time to inquire as to how Federal Trade or the Interstate Commerce Commission operates.

Senator TAFT. You are talking about trial examiners?

Senator DOUGLAS. No; I am saying the attorneys who present the cases——

Senator TAFT. Who present cases; yes.

Senator DOUGLAS. Who present cases before the Board, are they not appointed by and under the general direction of the Commission itself?

Mr. DENHAM. I assume they are, but I do not know, sir. I am not that familiar with the operations.

Senator DOUGLAS. Well, I am sure that they are. What about the Federal Communications Commission?

Mr. DENHAM. I am even less informed about the Federal Communications Commission, sir, than I am about the others, except by hearsay, which indicates that the trial examiners are operating—did originally, not now, operate—under the Federal Communications Commission, but I do not know about that.

Senator DOUGLAS. Well, is it not a fact that in every quasi-judicial body except the National Labor Relations Board the legal staff is not organically separated from the rest of the Commission? Isn't that a fact?

Mr. DENHAM. I know of none in which there is the broad, clear, distinct separation that exists here.

Now, if I may proceed a little further, I do believe that by this separation that we have here you acquire the only true conformance to the requirements of the Administrative Procedure Act in that you do then have a complete cleavage and a complete separation of the decisional body from those who are interested in the presentation of cases before it.

Senator DOUGLAS. I was not at the moment interested so much in the arguments pro and con as in developing the factual basis upon which we could form a judgment. But isn't it true that in every other quasi-judicial body except the National Labor Relations Board the attorneys or the prosecuting agents are not separated from the rest of the staff, that you do not have the bifurcated organization that you have under the National Labor Relations Board?

Mr. DENHAM. The what?

Senator DOUGLAS. Separated into two distinct sections.

Senator TAFT. "Bifurcate"; that is an academic expression.



Mr. DENHAM. Oh, yes; I did not understand. I know what the word means now. I assume that is true, sir. The only one I know where there is that bifurcation is in the National Labor Relations Board.

Senator DOUGLAS. Isn't it a fact that it is the only one?

Mr. DENHAM. It is the only one I know of, and it is——

Senator DOUGLAS. Are you acquainted with the report that was made in 1940-41 by the Committee on Administrative Procedure headed by Dean Acheson?

Mr. DENHAM. That is the Attorney General's report?

Senator DOUGLAS. The committee appointed by the Attorney General?

Mr. DENHAM. Yes, the Attorney General's Committee report; yes. To say that I would be familiar with it, sir, would be going a long way. I have gone through a copy of it; I have read parts of it, but I am not familiar with all of it. I know there was such a report, and that it contained a great deal of interesting matter.

Senator DOUGLAS. Did you know the general conclusions which this committee arrived at?

Mr. DENHAM. Well, it arrived at a lot of general conclusions.

Senator DOUGLAS. Now, on this point, I mean, as to whether there should be a complete separation in functions.

Mr. DENHAM. It is a long time since I have seen it. I would like to be enlightened on it.

Senator DOUGLAS. I would like to read the concluding paragraph on page 60 of this report, as follows:

The committee concludes, then, that complete separation of functions would make enforcement more difficult and would not be of compensating benefit to private interests.

On the contrary, both those private interests which the statutes are designed to protect and those which are regulated would be likely to suffer.

Finally we conclude not only that separation will not necessarily cure bias and prejudice, but that the requisite impartiality of action can be secured by the means set forth in this and the preceding sections of this report.

Senator TAFT. I think it should be—excuse me. I think it should be pointed out that I wholly disagreed with that report—not wholly, but to a large extent, and certainly with that conclusion.

Most of the members of the Judiciary Committee, I think, disagreed with it in the last Congress, and while it has a bearing, I do not want to have it accepted as the last word on what the administrative procedure should be.

I do not think it was followed. It was followed to a certain extent in the Administrative Procedure Act, but I do not think it was followed absolutely, as I recollect, prior to the enactment of that act.

Senator DOUGLAS. That was going to be my next question: Doesn't the Walter Act carry out very largely the recommendations of this committee, and does the Walter Act prescribe separation of function, if you prefer that to the term "bifurcation"? Does the Walter Act prescribe separation of functions between the legal and the other branches of these commissions?

Mr. DENHAM. I must again exhibit my colossal ignorance. I do not know what the Walter Act is.

Senator DOUGLAS. Do you not know what the Walter Act is?

Senator TAFT. The Administrative Procedure Act.

Mr. DENHAM. The Administrative Procedure Act? Oh, yes. The Administrative Procedure Act does not provide in so many words for the separation of functions, but it does provide in very clear language that the judiciary, the decision-making officials and branches of the administrative body, must remain aloof and separate from the parties.

It prohibits, as I recall, any communication between the decision-making body and the parties, except in the presence of the other parties. In other words, it follows the canons of ethics of the courts.

Senator DOUGLAS. Wasn't that precisely what the National Labor Relations Board was doing from at least 1940 on?

Mr. DENHAM. Not entirely, sir.

Senator DOUGLAS. In what ways was it not doing that?

Mr. DENHAM. There were many cases in which the National Labor Relations Board made, as members of the Board, pretty thorough examinations and investigation into the facts before they even allowed a complaint to be issued. I know one in particular in which I happened to be the hearing examiner.

Senator DOUGLAS. Well, was that not designed—

Mr. DENHAM. It is that effort to prejudge the facts or the information or the possible opportunities to prejudge the facts that the Administrative Procedure Act was attempting to regulate.

Senator DOUGLAS. Was that not designed to obtain added rather than less impartiality, so that not even a complaint would be issued unless there was ground for it?

It seems to me that that is testimony to the added impartiality of the Board rather than to less impartiality of the Board.

Mr. DENHAM. I think that is a matter, sir, for congressional determination as to what the purpose and accomplishment will be.

Senator MORSE. Will the Senator yield?

Senator DOUGLAS. Yes.

Senator TAFT. I yield to the Senator.

Senator DOUGLAS. We both yield.

Senator MORSE. This is for the purpose of a request of the witness, and, second, for the purpose of a comment in regard to the statement of the Senator from Ohio.

I think the witness has made a very significant statement and that we should have the benefit of supporting evidence, so I would like to make the request that the witness supply the committee with a detailed memorandum in support of his testimony that the Board prior to 1941—was it; or at the time of 1941—what was the date of the Senator's question as to the partiality?

Senator DOUGLAS. I was not saying that the Board had been partial prior to 1940, but I was asking whether there was any question about the impartiality of the Board of the so-called Millis-Leiserson period.

Mr. DENHAM. You are getting into a different territory.

Senator MORSE. I would like to have the witness prepare for the committee a detailed memorandum in support of his charge, which I think his testimony constitutes, that the Board was guilty of partiality in carrying on the functions in respect to its quasi-judicial powers.

So there will be no misunderstanding as to the purpose of my request, will the reporter please read to the committee again Mr. Denham's answer to the last question put to him by the Senator from Illinois.

Senator TAFT. Do you refer to the Board's having interfered in the question of filing?

Senator MORSE. The first investigation on the part of the Board. My point is, when I examine Mr. Denham in regard to his comments on Mr. Millis, I don't propose to sit here and listen to accusations without the witness supporting his accusations with whatever facts are necessary to support them.

In taking over an examination, I shall want some evidence in regard to what I think is a most unfortunate reflection on one of the great leaders of America in the field of labor relations set forth in this witness' testimony—Mr. Millis.

Will the reporter read the testimony I have requested.

(The record was read by the reporter.)

Senator MORSE. I would like to have a memorandum, Mr. Denham, in support of your statement in regard to the Board's examination of the facts prior to the issuance of the complaint.

Mr. DENHAM. Thank you, sir.

Senator DOUGLAS. I have one more question, which relates to the definition which you have given to the term "agent."

Under the Taft-Hartley law, unions are made financially and legally responsible for acts of agents, and the fact that these acts may not have been approved prior to their performance or ratified subsequent to them in not controlling.

May I ask what has been your interpretation of the term "agents" in connection with picketing?

Have you held that the actions of pickets on the picket line constituted the acts of agents of the union?

Mr. DENHAM. We have contended in at least one case that I can recall that where the picket line was set up by the agent of the union—that is, the business representative or one of the normal representatives of the union and the picket line is under his jurisdiction or supervision, that every member of that picket line becomes one of the agents of the union.

Senator DOUGLAS. And, therefore, the union becomes financially responsible for any acts committed by these pickets?

Mr. DENHAM. We have never gone into the question of financial responsibility of unions. That is outside our bailiwick.

Senator DOUGLAS. That would follow, would it not, from your interpretation that they would be financially responsible?

Senator TAFT. But subject to review of your determination by the court. I disagree.

Mr. DENHAM. Most assuredly.

Senator TAFT. You merely pass on it as any prosecutor would pass on it.

Mr. DENHAM. We urged that point in one case that I have in mind; as I recall, the trial examiner sustained it.

Senator DOUGLAS. I think that is all.

Senator DONNELL. Will the Senator yield for just one moment?

Senator TAFT. Yes.

Senator DONNELL. Senator Douglas, you have cited here from page 60 of the report of the so-called Attorney General's Committee, conclusions of the committee. I will ask you to state whether or not there were supplementary reports, additional views and recommendations,

notably, those by Messrs. McFarland, Stason, and Vanderbilt—Mr. Vanderbilt occupying a very exalted position in the legal field.

Mr. DENHAM. Yes, Mr. Vanderbilt is a fine citizen.

Senator TAFT. Chief Justice in New Jersey.

Senator DONNELL. Dean of one of the law schools. I would like to read from page 208 of the separate opinions as follows:

As a general policy, the whole committee agrees that at least a separation of functions within each agency should be provided.

I have not had time, Mr. Chairman, to examine the entire supplemental recommendation, but I think it should not go unchallenged that the observations taken from page 60 represents the entire thinking of that committee.

Senator DOUGLAS. I would like to point out that this separation of functions had, in fact, been effected inside the Board prior to the passage of the Taft-Hartley law for a number of years. As a matter of fact, I think it is the case that when the Administrative Procedure Act was drafted, some of the actual procedures followed by the National Labor Relations Board were used as the model for them. I believe that is correct.

Senator DONNELL. Will the Senator yield for just a moment?

Senator TAFT. Yes.

Senator DONNELL. At page 203 of this booklet which contains this report, these additional views, I would like the record to show Messrs. McFarland, Stason, and Vanderbilt say this under the subject "The Separation of Functions," and I read:

History and tradition have given English-speaking peoples a governmental pattern which they regard as the essence of fair adjudication. They regard the legislature as the first forum in matters between the Government and the citizens; in the legislature, made up of representatives of all the people, their needs are presented and general solutions devised. The investigator or prosecutor follows; it is his duty to enforce the law by discovering wrongdoing and bringing wrongdoers to justice. But the prosecutor is not allowed to judge as well as to prosecute. Instead, he must prepare his case, summon witnesses, and present reliable evidence at a hearing before a court which is independent of the prosecutor. Even a judge in a court of law is not the sole judge. A jury of citizens must first say whether they approve the imposition of criminal penalties or money damages. The judge may then say whether, notwithstanding the permission given by the jury, the imposition of penalties or damages is "lawful." Not even then is the process finished, for the right of appeal to a higher tribunal has come to be regarded almost as essential as the right to a trial.

In the administrative process, however, these stages of making and applying law have been telescoped into a single agency.

I would like, Mr. Chairman, leave to insert in the record such, if any, further portions or excerpts from either the main report or the supplemental views, as I may deem proper.

Senator MURRAY. Permission is granted.

Senator MORSE. Will the Senator from Ohio permit me to ask some questions of the Senator from Missouri?

Senator TAFT. Yes.

Senator MORSE. The Senator from Missouri, I am sure, agrees with me that one of the issues that we are going to have to answer in executive session is this issue concerning the separation of functions within the National Labor Relations Board.

The Senator from Missouri has referred to the McFarland-Stason-Vanderbilt separate views filed with the Attorney General's Commit-

tee report. Is it not true that those views amount, in effect, to dissenting views?

Senator DONNELL. I haven't, as I say, had time to read all of it, but I did point out in what I read at the outset here a moment ago that Mr. McFarland and these other two gentlemen, Mr. Stason and Mr. Vanderbilt, say:

As a general policy the whole committee agrees that at least a separation of functions within each agency should be provided.

I cannot answer the question of the Senator further than that I have had these very few moments to observe the contents, but I do think it is important to observe that Mr. Vanderbilt, Mr. Stason, and Mr. McFarland do say that as a general policy the whole committee agrees that at least a separation of functions within each agency should be provided.

Senator MORSE. I will withhold further questions at this time with very brief comment, because it bears on what the Senator from Ohio has previously said. I think examination of this material that the Senator from Missouri has called attention to certainly should be studied by this committee, and we will find that the views of Mr. Stason, Mr. McFarland, and Mr. Vanderbilt represent what would, in effect, be a dissenting report. I think we will find further that what the whole committee had in mind was that each quasi-judicial administrative tribunal should, by rules of the tribunal, separate the functions; and it was that view that was adopted by the Judiciary Committee of the Senate when the Walter bill was passed, and it was that view which was subsequently approved by the administrative law committee of the American Bar Association in recommending the adoption of the Administrative Procedure Act.

So, we want to keep clearly in mind the difference—I think it is a significant difference—between separating the so-called judicial and prosecuting functions of the quasi-judicial tribunals by law in the form of an exception to the Administrative Procedure Act, which the Taft-Hartley law is, in regard to this particular point, and passing an administrative procedure law which imposes upon an administrative tribunal the duty by its own rules and separations to separate the functions.

As the Senator from Illinois points out the latter is exactly what the National Labor Relations Board had already done prior to the passage of the Taft-Hartley law, and we didn't, in my judgment, give the Board and the other tribunals under that act adequate time to show how effective the Administrative Procedure Act would have been.

Senator DONNELL. Might I say this, if the Senator will yield for a second. Senator Morse asked whether or not the statements of Messrs. Stason, McFarland, and Vanderbilt are dissenting opinions. I will state the index does not so call them. It calls them "Additional views and recommendations of Messrs. McFarland, Stason, and Vanderbilt."

Furthermore, a statement such as I have read in which it recites that the whole committee believes a certain thing, I don't think can be called a dissenting opinion. I am not saying anything further, because I have not had time to read them.

Senator MORSE. Those views were not incorporated in the final act, and the final act was based upon the recommendations of the committee.

Senator DONNELL. I am unable to answer the Senator with respect to that.

Senator TAFT. In the first place, Senator Morse suggested that the bar association approved this act. Yesterday he pointed out that the National Association of Manufacturers agreed to putting the Conciliation Bureau in the Department of Labor and pointed out that they did so because they thought it was the best they could get as part of a general compromise.

I suggest that the American Bar Association agreed to this Administrative Procedure Act because they thought it was the best they could get, and it didn't necessarily indicate any more approval of the Administrative Procedure Act than in regard to the Department of Labor.

Senator MORSE. May I comment that you will not find in the record any statement from the Senator from Oregon in regard to the position of the National Association of Manufacturers. I am never sure I know their position.

Senator TAFT. The individuals who are connected with them.

Senator MORSE. The members of the Labor-Management Conference of 1945, which is quite a different thing. I will say further that I respectfully disagree with the Senator from Ohio. An examination of the proceedings of the administrative law committee of the American Bar Association will not bear out the observation that the Administrative Procedure Act was approved by them as the best compromise they could get.

I think when they recommended the act they thought it was the act that ought to be passed to handle quasi-judicial procedures.

Senator TAFT. I think this is an appropriate place to read, and I would like the committee to listen to the provisions of the Administrative Procedure Act on the separation of functions, which is section 5 (c):

The same officers who preside at the reception of evidence pursuant to section 7 shall make the recommended decision or initial decision required by section 8 except where such officers become unavailable to the agency. Save to the extent required for the disposition of ex parte matters as authorized by law, no such officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate—

I think that is a trial examiner. No trial examiner—

shall consult any person or party on any fact in issue—

I assume that means the attorney, et cetera—

unless upon notice and opportunity for all parties to participate; nor shall such officer be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency.

Trial examiners are not to be under the domination of the prosecuting end. To continue:

No officer, employee, or agent engaged in the performance of investigative or prosecuting functions for any agency in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 8 except as witness or counsel in public proceedings. This subsection shall not apply in determining applications for initial licenses or to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; nor shall it be applicable in any manner to the agency or any member or members of the body comprising the agency.

So that while the Administrative Procedure Act does impose and require a separation of these two functions under the Board, it in no way attempts to take away from the Board's being the boss, so to speak, of both branches; isn't that the fact?

Mr. DENHAM. This is the way I read it.

Senator TAFT. That is the distinction, isn't it, between the Administrative Procedure Act and the procedure prescribed by the Taft-Hartley law in labor cases?

Mr. DENHAM. That is the broad distinction.

Senator TAFT. Unless the Taft-Hartley Act is continued, we return to a condition in which the Board may participate if it desires in determining the question of policy as to whether a file shall be charged or not.

Mr. DENHAM. That is right.

Senator TAFT. And then the Board may later on pass on the validity of that particular question which they have previously investigated and prosecuted?

Mr. DENHAM. That is right.

Senator TAFT. Unless the Taft-Hartley Act is retained.

You say there have been instances in which the Board did participate in the decision of whether or not a prosecution should be filed?

Mr. DENHAM. One very notorious case was the case involving the Kaiser shipyards during the war.

Senator TAFT. And I do not know whether it is borne out by experience, but what I would like to know is: If the Board once participates in a question, is there a prima facie case that they hardly can approach the final decision in a judicial spirit?

Mr. DENHAM. That has been my reaction, Senator, to the thing. It has come up, if I may step into a slightly additional field, in connection with the exercise of the determination to seek 10 (j) injunctions. The Board and I have discussed that.

Senator TAFT. 10 (j) injunctions are primarily injunctions against employer or employee?

Mr. DENHAM. Yes. The determination to apply for an injunction is discretionary. The language of the act places it in the Board.

In going over the matter, however, it was delegated to the General Counsel and that primarily on the theory that the Board simply could not determine whether they wanted to seek an injunction in a given case without being fairly well acquainted with all the facts that are involved in it, which would immediately run them up in conflict with this theory of segregation.

Senator TAFT. This discretion, Mr. Denham, which is given to the General Counsel to pass on unfair labor practice charges, both against employer and employee, of course, requires you to make various decisions on what you think the law means.

Mr. DENHAM. Oh, yes.

Senator TAFT. You make those decisions, but if a party is dissatisfied with your decision, he can appeal to the Board, can he not?

Mr. DENHAM. Not in an unfair labor practice case.

Senator TAFT. Not in an unfair labor practice case?

Mr. DENHAM. No.

Senator TAFT. How do unfair labor practice cases get before the Board?

Mr. DENHAM. Only when a complaint has been issued and a hearing has been held before a trial examiner and the matter goes before the Board in the regular judicial process.

Senator TAFT. That is what I meant. They can appeal from your decision to the Board, the case is then heard; technically they appeal to the Board, I assume.

Mr. DENHAM. Yes.

Senator TAFT. It is assigned to a trial examiner and he then tries the case, he makes a decision, and he may differ with your opinion on the law, I suppose?

Mr. DENHAM. Oh, yes.

Senator TAFT. And then that may be appealed to the Board, and the Board finally settles it as far as administrative procedure is concerned. As far as decisions short of the courts are concerned, the Board finally determines what the law means.

Take this question of interstate commerce. They could decide, I assume, that you were wrong on a question of holding something to be interstate commerce, could they not?

Mr. DENHAM. Of course, Senator. It is "affect commerce" rather than "interstate commerce." But on the subject of the determination of the disposition of a charge, these cases originate with the filing of a charge in the regional office in which someone accuses someone else of having committed an unfair labor practice. The general counsel is charged with final authority to determine whether or not a complaint shall issue on that charge.

If the regional director decides that the complaint should not issue, then any of the parties involved may appeal to the general counsel, appeal from the regional director's decision exactly as they may appeal to the Board in a representation case.

If the general counsel, after going over the file, determines that the action of the regional director was correct and that a complaint should not issue, he denies the appeal and that closes the case. However, if he determines that the regional director was in error, he may then direct the regional director to issue a complaint.

Then the complaint is issued, a notice of hearing is attached to it, and it is served and on the given date it is heard before a trial examiner. When the hearing opens before the trial examiner, the general counsel's control over that case completely ends. But up to that point he controls it.

Senator TAFT. The point I am trying to make is this: If there are differences between you and the Board on any question of law or interpretations of the act, ultimately that case can reach the Board and the Board is the final word and their rule governs you from that time on; is that right?

Mr. DENHAM. When a case gets to the Board in the regular course, the Board makes a decision. That is the law.

Senator TAFT. So that this question of so-called dissension between you and the Board is one which might last for some months, and create confusion in the beginning, but ultimately the Board is the judicial body deciding what the law means?

Mr. DENHAM. There is one point only on which there has been dissension, on which the Board and I have not been able to completely compose ourselves in the 16 months we have been there, and that is the question as to whether the little fellow, in other words, is entitled to



have the act processed in connection with his affairs or in connection with the affairs of his employees or in connection with the relations he might have with a labor union or whether the employees are entitled to it or the labor union.

Senator TAFT. Whether it affects commerce; is that it?

Mr. DENHAM. Yes. I have adopted, as I have said many times, the doctrine that in any case which affects commerce, in any industry that affects commerce within the meaning of that term adopted by the Supreme Court, the Board has statutory jurisdiction and that because of the many facets that are involved and the numerous interests that are involved (whereas, under the Wagner Act there was really only one interest) the processes of the Board should be made available to any employee, union, or employer.

Senator TAFT. I don't care to argue that question at the present time. I don't agree with your position entirely. But do you think that question ought to be settled? Do you think by law we should get some more definite definition of what the law is intended to cover?

Mr. DENHAM. I think that is the only answer.

Senator DONNELL. For illustration, with respect to hotels, laundries, and other industries that raise the point, would you regard it advisable that the law settle it in the statute itself?

Mr. DENHAM. I think the statute itself should determine the limits of jurisdiction and reduce to a minimum the area within which administrative discretion should be used, either by the General Counsel or the Board.

I just have one or two illustrations that are pertinent. For instance, out in the San Francisco area an inquiry came from our regional director asking, "What do we do? We have a charge filed. A man was fired at the instance of the union. It is a little tavern, one of probably 1,200 to 1,500 taverns in the San Francisco area."

It is owned by three men who are veterans, they have recently acquired it, and they have three bartenders, two of them belonging to the union and one not belonging. They ran the thing in shifts and each man had a bartender to work with him.

The union came along, they didn't have relations with the union, didn't belong to any association, the union representative came in and said, "You have got to fire that nonunion man you have got because we have a fellow to put in his place." The answer was, "We don't want to fire him. He is a good man." "It doesn't make any difference. If you don't have him fired by tomorrow morning, we will have a picket before your place and you won't do any business."

They did \$35,000 worth of business. They got their supplies in from outside the State, and it was passed out over the bar, it was consumed on the premises.

The employer said to this good bartender, "Joe, I guess you are fired. I can't afford to have a picket here." So Joe said, "Where is this fellow?" He was introduced to him and said, "I will join your union. How much is it? I will pay your initiation fee." "No, we don't want you. We have got another guy to put in your job."

So he was fired. He filed a charge. What are you going to do?

If the Board's decisions afford any pattern, unfortunately I must say they have not yet developed any pattern, this is a case in which normally the Board probably would say in a representation case that

the business is essentially local in spite of the fact that they do sell \$35,000 worth of merchandise which originates outside the State, and that it would not process it and have an election.

It is my feeling that that "Joe" who was fired is entitled to the protection of the provisions of the law if that business comes within the area of businesses that affect commerce.

Senator TAFT. Of course, my view would be that it didn't.

Mr. DENHAM. I use that as an illustration.

Senator TAFT. I sympathize with the case.

Mr. DENHAM. It would be a happy solution if the Congress could define the area of jurisdiction.

Senator TAFT. I think that sort of case should be left to the State of California to work out.

Mr. DENHAM. May I suggest another one?

Senator TAFT. Has the Board overruled you on some of your rulings as to jurisdiction where you have issued a complaint in that kind of case?

Mr. DENHAM. There is no decision. There are two such cases before the Board now.

Senator TAFT. They have full power to do it.

Mr. DENHAM. I am not sure they have. I don't think they have under the statute.

Senator TAFT. They have the power to do it.

Mr. DENHAM. I don't think they have the authority to do it.

Senator TAFT. Why not?

Mr. DENHAM. Because the statute vests the discretion entirely in the General Counsel, and the decision under the Wagner Act where the question of discretion has been raised has turned upon the similar authority resting in the Board.

I think that is pretty much of an analogy between the authority of the General Counsel now and that of the Board appearing in the decisions that were rendered before the Taft-Hartley Act.

Senator TAFT. But if they take the position that it does not affect commerce, it just does not affect commerce.

Mr. DENHAM. I will not argue it.

Senator TAFT. That is what I mean.

Mr. DENHAM. Heavens, no; I will not argue with them.

Senator TAFT. They can decide any case does not affect commerce.

Mr. DENHAM. I have told the Board if they find that it does not affect commerce, they will not hear a chirp from me. But if they say it affects commerce but it is essentially local and we will not process it, I will begin to yell.

Senator HUMPHREY. Will you give us the citation of the case with respect to the tavern?

Mr. DENHAM. I will send it up during the day. It has not been reached for trial, so far as I know.

Senator HUMPHREY. It has been reported by your regional officers?

Mr. DENHAM. It has been reported by our regional officers and, as I recall, the issuance of a complaint was authorized. What has happened to it since then, sir, I don't know.

Senator HUMPHREY. We would like to have that for record purposes.

Mr. DENHAM. I would be glad to get it for you.

Senator TAFT. Do you disagree that it is a question which it would be wise to clear up in the statute? Probably whether we have a general

counsel or not, it seems to me Congress should be concerned. It seems to me people engaged in business should know whether the Wagner-Taft-Hartley Act applies.

Mr. DENHAM. Let's call it the new Taft-Hartley Act.

Senator TAFT. The Taft-Hartley Act is the amended Wagner Act—whether the amended Wagner Act applies to the particular case or whether it does not or whether that is a matter that is left for State jurisdiction.

Mr. DENHAM. Now there are two or three facets that impinge on that which I think should be considered. We have in, I think it is, section 10 (a) the restriction with reference to the cession of jurisdiction to State bodies that administer the local law. There is a very clear restriction upon the times and places when that cession can take place. Under the Bethlehem Steel decision, the State authorities are not permitted to take jurisdiction; and under the La Crosse Telephone case, just recently decided by the Supreme Court, the State authorities are barred from the taking of jurisdiction and processing cases which fall within the jurisdiction of the Board.

The Board has recently recognized that in Utah in a case where the State board of Utah had taken cognizance of the representation question raised by the steel workers. That, by the way, was another Kaiser case.

Now the steelworkers are not qualified to come to our Board. They have not filed the necessary affidavits. We went into court there and obtained a restraining order because that was within the jurisdiction of our Board, and there was a petition filed by a qualified union for an election. Injunction was issued.

The case then came to the Board on this whole thing, and the Board there in its decision recognized that, even in these cases that are local in character within the area that they say we don't want to process, they cannot cede the jurisdiction to the State authority.

Senator TAFT. We could, of course, provide that they could if we wished to, in the law.

Mr. DENHAM. Surely, but it is not there. When the Board kicks out, as they have, some very large institutions, institutions doing millions of dollars of business, on the theory that regardless of the fact that their material is coming in from outside, if it is distributed locally, it wouldn't come under the act, they are leaving those businesses, leaving the unions doing business with those employers, and leaving the employees of those employers in a no-man's land where they have no tribunal to which they can go. That goes to your point.

Senator TAFT. Getting back to the provisions of the law, I would like to have your opinion about various provisions and their value or whether they should be retained or repealed. Of course, if this law is passed as it is before the committee, the express ban on the Central Review Section would be removed. I think Mr. Herzog testified that the Board would not restore it, but do you think there should or should not be a Central Review Section?

Mr. DENHAM. I think there should not be.

Senator TAFT. In other words, you think the litigants are entitled to the individual opinion of each member of the Board?

Mr. DENHAM. Yes; obtained through consultation with his own staff and through his study of what may be available.

SENATOR TAFT. There will also be eliminated, if this bill is passed, the ban on the review of trial-examiner reports by other than Board members, which is very much the same question; isn't it?

MR. DENHAM. Yes. We did have associate attorneys. The trial examiner would hear a case and come back, draft a copy of his intermediate report as he conceived it to be, and then would hand it to the chief trial examiner. The chief trial examiner would assign it to one of the associate attorneys, who would review the record and do much the same thing the Review Section used to do, except that the associate attorney did nothing more than confer with the trial examiner and point out to the trial examiner any weaknesses which he thought he might have found in the intermediate report.

The trial examiner was at liberty to take the suggestions or leave them alone as he saw fit. It was a sort of double check. It was not without some value, but it was time consuming.

I feel now that if our trial examiners are to be of the caliber that the Administrative Procedure Act intends them to be, and that apparently the Board expects them to be by the gradings they have set up for them, trial examiners should have enough responsibility so they can work out their own destinies on those things and should be without that intervening factor.

SENATOR TAFT. Now, coming to the unfair labor practices on the part of unions, which is 8 (b) of the section, what was added by the Taft-Hartley law to the Wagner Act? It is (3):

to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of Section 9 (a).

That is one of the unfair labor practices. Do you think that unions should be required to bargain just as employers are?

MR. DENHAM. It is perfectly obvious that they should. In the experiences we have had in the trial of cases under the Wagner Act, I have had many occasions when testimony has shown that a union has come into a bargaining conference, laid down a contract, and said, "There it is; now sign it right there."

So far as indicating a willingness to recede from it, too frequently they say, "We get it that way or you get a picket line."

SENATOR TAFT. That was what the employers used to do before the Wagner Act was passed. It cuts both ways now. I think the unions should be required to live under the same standards as the employers. The unions have grown up. They don't need to be pampered and babied. They are big institutions. They occupy a place in the economic scheme of things just as important and big and they can be just as independent as business.

SENATOR TAFT. You feel it is wrong for this law to eliminate the requirement that unions bargain collectively?

MR. DENHAM. I certainly think they should be required to live within those limits.

SENATOR TAFT. Can you give us your views on one of the practices that has been the most criticized and one in which I think there is certainly a serious question? The first one is:

to restrain or coerce employees in the exercise of the rights guaranteed in Section 7.

I think that is the section under which some kinds of picketing have been ruled out or perhaps enjoined.

Mr. DENHAM. Mass picketing and picket-line violence.

Senator TAFT. What has been your experience with that type of unfair labor practice, the coercion of employees? Have you any typical case?

Mr. DENHAM. I am trying to think of some, Senator, at the moment. The Sunset Line and Twine case is one of the very aggravated ones.

Senator TAFT. Tell us about that.

Mr. DENHAM. In that case, it was a small concern. They got into some sort of quarrel with a labor union. I have forgotten whether it was over some contract provision or for recognition, or just what it was. The first thing we knew there were masses of pickets around the place, and a number of acts took place which would fall within these provisions. As a matter of fact, I sent one of our men out to San Francisco or Sacramento—outside of San Francisco, I think it was—to check up on it, to investigate it, and to give me a first-hand investigation and advice as to whether injunctive action was necessary.

Senator TAFT. What happened, and why was it coercion?

Mr. DENHAM. He sat down and talked with them and told them they had better play ball and get back on base, and they did it; and the picket line was withdrawn.

Senator TAFT. No action was taken?

Mr. DENHAM. No action was taken, except charges were filed and all of this picket-line violence had taken place.

Senator TAFT. What was the coercion? Where is picketing coercion? That is what I want to get at.

Mr. DENHAM. Picketing per se is not coercion. There are some times where I can see it is coercion where the effect of the picketing is to say to the man who crosses the picket line, "You are going to be fined and possibly expelled from your union if you cross this picket line," which is true in some instances.

Then it becomes coercive, and we have contended that and I think successfully in one or two cases, but where you have masses of pickets and where they engage in violence, where they overturn automobiles, where they slug people, where they put tacks in the line the automobiles have to go in order to keep them from going to their jobs, that is coercion, and that was what we had to contend with in the Sunset Line case.

That was all done under the direction or the presence of the representatives of the union, rather high representatives of the union.

Senator HUMPHREY. May I ask a question?

Mr. DENHAM. Yes, sir.

Senator HUMPHREY. What did the local police authorities do?

Mr. DENHAM. Unfortunately, Senator, in that place the local police were inadequate to handle it. I think, as I recall, there was some effort made to get local police in it, to get State police into the picture. It just required more manpower to do it than they had.

That too frequently is true in these mass-picketing situations. It gets beyond the power of the local police to handle. We have had instances where the local police have had their clubs taken away from them, have gotten beaten up themselves by the pickets. It is a rather sad circumstance, but it does happen, and more frequently than not the local police are not anxious to get into those kinds of melees, and they stay out of them pretty much.

Senator HUMPHREY. This is the Sunset Line case?

Mr. DENHAM. Sunset Line case; yes, sir.

Senator HUMPHREY. What are your local public officials doing during this period of time? I speak of this from some experience in a city of 550,000 where we have had demonstrations of mass picketing, and I, as mayor of the city, had to deal with them, and I never in all my time in  $3\frac{1}{2}$  years used a police officer in a strike.

Mr. DENHAM. Well, the local officers apparently did not get very far. This occurred quite some time ago, Senator, and I must confess I may be a little hazy on the details of it. There have been a great many cases going on over my desk.

Senator HUMPHREY. You think the fact that there are certain stringent provisions, punitive provisions, injunctive provisions in the Taft-Hartley law, that that might in any way, let me say, diminish the influence of local authority to reconcile some of these differences and to get common agreements?

Mr. DENHAM. No; I do not think it has that effect. I think the effect rather goes to the attitude of local authorities toward these things.

Now the instance that you speak of was an aggressive administration that was looking at these things. Now Mayor O'Dwyer in New York is doing the same thing. He steps into these things and says, "Come on, boys; let us get together on them," and he does the things that will tend to bring them together, but that is the exception rather than the rule, I fear.

Senator HUMPHREY. Well, I had an experience in the telephone strike, which was a very trying one, I might say. The telephone company was right across from the city hall, and I remember one Monday morning we had mass picketing. I think we had from 300 to 400 pickets out there. However, there was no violence.

I had worked very closely with the union officials and with the company officials, knowing them both, making it my business to keep track of the development of this dispute over the weeks.

I found out, and I want to say that one of the things that I did find out was there was some reliance being made on the representatives of the employer in this instance not to try to see if we could not work this difference out and try to get things back normally without the impact of the law, some reliance to use the injunction on the picketing; in other words, I was constantly told, "It is not what you want to do about this, Mayor. What we are going to do is go to court and get an injunction."

Finally I told them, "Just go ahead and go to court and get an injunction if you want to enjoin the daughter of the district-court judge up here, and if you want to enjoin the daughter of one of the vice presidents of the Northwest National Bank. You go right upstairs and enjoin them."

They did not want to do that. They were showing me, however, that their spirit of reconciliation was not really there. When I finally got it across to them that I did not care whether they enjoined them from now until Christmas, then we started to settle down.

I got them over in my office and had the opportunity of convincing the employer and the union we were not going to settle the strike in Minneapolis anyhow and at least they ought to abide by some rules

and regulations, and I can honestly say that we, after that one demonstration—and I took all the abuse that comes along with the failure of using the gendarmes to beat people up—after that one demonstration, we never again were bothered with any serious type of picketing.

Mr. DENHAM. Well, I think, Senator, that a great deal depends upon the type and the vigor of the administration that is handling it.

I have in my hand here one of the reports that has been prepared for me that I asked my staff to keep me up to date on, which is a report on the charges filed involving section 10 (l) and 10 (j) which have been submitted to Washington for advice up to December 31, 1948.

You can see there are quite a number of them.

Senator HUMPHREY. Yes, sir.

Mr. DENHAM. This goes through, describes each of the charges, each of the cases, what happened, and gives the story. I just want to turn to one here which I do not recognize offhand.

This case involves the Rural Motor Express in Altoona, Pa., and was a charge filed against local No. 110, the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of the A. F. of L. It charged a violation of section 8 (b) (4) (A). The little paragraph concerning the facts reads as follows:

Charging party operated as a connecting carrier on certain franchise routes between points within the State of Pennsylvania. Its employees were unorganized. Teamsters refused to permit its members employed by others at connecting points to deliver or accept freight from charging party because of charging party's refusal to recognize it.

Senator HUMPHREY. Yes, sir.

Mr. DENHAM. "Disposition: During investigation the teamsters complied with the act and the charge was withdrawn."

Now you will find running through here probably over 50 percent of the cases, or 75 percent of the cases, wind up with that sort of an idea.

Now it may be that the mere fact that there is some injunction provision in the act tends to bring the people together more rapidly, and I think that that has had a tremendous effect on it.

Senator HUMPHREY. Our witness yesterday, Mr. Davis, contradicted that point of view. I notice Mr. Leiserson's article in the New York Times contradicts that point of view.

Senator TAFT. Wait a minute; that is not quite so, Senator. I think we should distinguish very carefully between injunctions in strike cases where employees have a dispute with their employer, and cases in which there is a secondary boycott which is not a strike at all but merely an interference with the business of another employer and his employees.

Mr. DENHAM. That is a broad distinction.

Senator TAFT. The question is whether Mr. Leiserson's remarks and those of Mr. Davis really affect this question of injunctions against secondary boycotts. I raise that question.

Senator MORSE. The Senator from Ohio means you have to consider injunctions in respect to the strike situations and in respect to alleged unfair labor practices by unions.

Senator TAFT. Well, no; the distinction I was trying to draw was a little different. We have really three questions of injunctions in here, as I see it.

We have the national emergency strike where you enjoin the people directly, although there is clearly an economic difference, which seems to me to go further than any other.

Then you have the question of an injunction perhaps in these cases to keep them negotiating, not to strike for 60 days while negotiations are going on in ordinary cases. Whether you ever get to injunction or not, it is suggested that they are prohibited from striking.

Mr. DENHAM. Well, that is in section 8 (d).

Senator TAFT. Yes, section 8 (d). Then you have a third case where the suit for damages and the injunction is against a union dealing with somebody entirely different from its employees. That is a secondary-boycott case.

Senator MORSE. Using an unfair labor practice.

Senator TAFT. Well, an unfair labor practice, but it seems to me different in nature from injunctions in direct cases.

Mr. DENHAM. Well, Senator, may I suggest that the type of injunctions that Mr. Davis talked about yesterday, as I get it, was limited exclusively to the enjoining of strikes that endanger the public health and safety.

Senator TAFT. Well, that was my impression, but I do not know that. I only suggest that the testimony be examined to be sure. At other points he might have covered some of the other questions.

Senator HUMPHREY. I asked him some direct questions about injunctions as a method of interference, let us say, of direct contact with a strike situation or a labor-dispute situation, and he was pretty frank about stating that he did not believe in the injunctive process.

Senator TAFT. On the question of using an injunction, the main objection that he made to it was that it made bad relations between an employer and his employees.

Senator HUMPHREY. Right.

Senator TAFT. But secondary boycotts have nothing to do with the relations between an employer and his employees. A secondary boycott is where a union goes in and tries to affect a third party, perhaps against the wishes of a majority of the employees of the third party, and certainly against the wishes of the employer of the third party.

That, it seems to me, is an entirely different problem from the problem of injunctions in national-emergency cases, and I only bring the point up because I believe that the committee ought to approach these two questions from a different angle. Now this question of coercion—

Senator HUMPHREY. I do think we should be careful in the examination of Mr. Davis' record because I am sure he did not make that distinction.

Senator TAFT. This question of coercion, I think you are right, is primarily between the employer and his employees, between the union and its members, which is perhaps the same thing. His remarks might apply to that, but do not try to distinguish the secondary boycott question from the other.

Mr. DENHAM. Well, I of course look on the injunction as provided for in sections (l) and (j) as threshold injunctions which are designed to maintain a status quo and to avoid irreparable losses to any of the parties involved. Of course, I have my ideas about the value and necessity for some of them, but then that is another matter.

Senator HUMPHREY. What are your ideas on the value of those? I am interested in that because this is one of our big points of study here and investigation—I mean this whole injunctive process.



Senator TAFT. Let me ask this question, then. What do you think of the importance, assuming now that we have certain unfair labor practices laid down in the law—and even the new bill proposes certain unfair labor practices to apply to certain kinds of secondary boycotts—what do you think of the value of a provision giving the general counsel the right to ask for temporary injunctions without the usual procedure which takes a number of months?

Mr. DENHAM. When you speak of the temporary injunctions, I take it that you are now——

Senator TAFT. Talking about 10 (j).

Mr. DENHAM. 10 (j) injunctions?

Senator TAFT. Or 10 (l).

Mr. DENHAM. 10 (l) are mandatory. There is no discretion. We are obligated to go in there whether we want to or not.

Senator TAFT. If you find——

Mr. DENHAM. If we find that the facts indicate that that particular unfair labor practice that has been charged has actually been engaged in. Then we have got to go in.

Senator TAFT. You have the discretion, however, to determine whether it has been engaged in. You do not have to file, just because someone brings a charge——

Mr. DENHAM. Oh, no, sir. An examination of this document that I have here, this record of these cases, will show that we have had to make and that we do make close investigations of each of these before we act. We give them about the priority that the statute calls for and unless there is a lot of merit to it, we do not go in.

Senator TAFT. Well, now, getting back to the question, What do you think about the advisability of giving the power of temporary injunction, apart from the question of the scope of secondary boycotts? The new bill gives the power to get injunctions after the Board has found that there is an unfair labor practice and a cease-and-desist order is issued and so forth and is not obeyed. They can go in and get the injunction.

Mr. DENHAM. That is a part of the Wagner Act.

Senator TAFT. That is part of the Wagner Act and part of the new act.

Mr. DENHAM. Yes, sir.

Senator TAFT. Now what do you think of the value or the lack of value of these provisions giving the general counsel the right to go in and get temporary injunctions?

Mr. DENHAM. Under 10 (j)?

Senator TAFT. Under 10 (j); yes.

Mr. DENHAM. I feel that it is a tremendously valuable feature. It has one danger and that is the same danger that was talked about yesterday.

If one is inclined to just go rushing in on the slightest pretext, why it may be made the subject of abuse.

On the other hand, I think there must be a presumption that any bill of that sort or any law will be properly administered, sanely administered, and consequently I feel that the threshold injunction should be provided for, but as has been used, as has been found in connection with the utilization of section 10 (j), it should be very sparingly applied.

The mandatory injunction sometimes becomes embarrassing and we have on occasions found ourselves hunting a fieldmouse with a 16-inch gun.

Senator TAFT. Well, I rather agree, myself, that it is one of the places it was claimed—and I think perhaps properly claimed—that it is one-sided unless made to apply to various situations like the reinstatement of employees who are arbitrarily fired—

Mr. DENHAM. Yes, sir.

Senator TAFT. That it might well be dropped altogether, but I would very much object to dropping 10 (j) which gives the general counsel the right to seek temporary injunctions either against employer or employee.

Mr. DENHAM. That, I think, is a highly desirable feature that should be available because the processes of the Board are relatively slow.

Senator HUMPHREY. Will the Senator yield? Will Mr. Denham yield just a second, please?

Senator Taft referred to 10 (j) as giving the general counsel the right. Is not that the section which gives the Board the power to petition?

Senator TAFT. Yes, it is; but the power has been delegated to the general counsel by agreement, as I understand it.

Mr. DENHAM. That is right.

Senator TAFT. The Senator is entirely correct.

Senator HUMPHREY. I would like to ask a question here for a little clarification.

You spoke in the same breath of a temporary injunction, either you or Senator Taft, and the cease-and-desist order, I mean literally saying that in both instances there was some rule of law. Now there is a difference between a temporary injunction and a cease-and-desist order.

Mr. DENHAM. Oh, yes.

Senator HUMPHREY. A cease-and-desist order requires at least a court determination, does it not?

Mr. DENHAM. Well, a cease-and-desist order administered by the Board, we will say, is not self-executing.

Senator HUMPHREY. That is right. In other words, it requires a court determination.

Mr. DENHAM. Now, then, I think there was just one, possibly two occasions in the past 12 years when the Board has exercised the power, the authority to seek injunctions at the threshold of its enforcement proceedings after a cease-and-desist order has been entered. I am sorry I cannot give you those citations.

I think there have only been about two of them. Mr. Lazarus is probably familiar with them and may be able to enlighten us.

Senator HUMPHREY. I was going to say in a temporary injunction it seems to me one of the real threats is a strictly ex-parte affair. You can walk over here and get a judge and get an injunction without any determination of the facts and, as Mr. Davis said, or I believe it was Senator Morse who said it yesterday, an injunction in the eyes of the public prejudices the public right away.

It says something is wrong. Somebody was committed at least an evil deed here and there was somebody that made a bad mistake or somebody that is on the wrong side of the fence.

As to temporary injunction, we have had lots of temporary injunctions in American history, have we not, that we have indicated that they are sometimes not so temporary?

Senator TAFT. Well, I might read this provision of the act just to be perfectly certain:

*Provided further*, That no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable and such temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period. Upon filing of any such petition, the courts shall cause notice thereof to be served upon any person involved in the charge, and such persons, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony.

So that we have adopted in that the provisions of the Norris-La-Guardia Act relating to temporary injunctions.

Mr. DENHAM. I might say in the 16 months that we have been functioning we have petitioned for one temporary restraining order *ex parte*. That was asked against the Boeing Aircraft Corp., as I recall. The court denied it. The company took the position, however——

Senator TAFT. If it had been granted——

Mr. DENHAM. That was not granted.

Senator TAFT. You would have had to have a hearing within 5 days.

Mr. DENHAM. Yes.

Senator HUMPHREY. Well, how long have the injunctions been running? I have one case particularly in mind and another that was brought to my attention, first of all the Wadsworth case. How long has that injunction been running, or how long did it run?

Mr. DENHAM. The Wadsworth case, that case, as I recall, was out in Kansas City. I do not recall exactly when that case arose. It was something like a year ago.

The restraining order, the injunction was obtained, and it was obtained on notice and with the showing by both parties. It was appealed and is now pending in the circuit court, the Tenth Circuit Court. The hearing on the merits of the charge——

Senator HUMPHREY. That is the instance I want.

Mr. DENHAM. Yes, sir; was held rather promptly. The trial examiner heard the case, and after some considerable delay issued his intermediate report. The matter is now before the Board for decision.

Senator HUMPHREY. It has been about 10 months, has it not?

Mr. DENHAM. I think it has been something of that sort; yes, sir.

Senator HUMPHREY. Has not the court made some statement to the effect that had it known how long the NLRB was going to take to make some decisions in this matter——

Mr. DENHAM. I think the court was rather pointed in its remarks on that; yes, sir.

Senator HUMPHREY. Kind of pointed; yes, sir. Now, the ITU cases, you had an injunction there.

Mr. DENHAM. Yes.

Senator HUMPHREY. An injunction on probable cause first.

Mr. DENHAM. Yes.

Senator HUMPHREY. And a contempt order on probable cause.

Mr. DENHAM. Yes.

Senator HUMPHREY. I mean nothing has been settled. I mean all we know is that something might have happened and there was

probable cause and you issued an injunction. You obtained a contempt order——

Mr. DENHAM. All these actions were taken on a showing.

Senator HUMPHREY. But nothing has been determined, that is, there has been no judicial determination of facts in the case.

Mr. DENHAM. Except by the trial examiner.

Senator TAFT. By trial judge?

Senator HUMPHREY. They have not by trial judge.

Senator TAFT. The testimony was heard by Judge Swygert in Indianapolis.

Senator HUMPHREY. You mean for injunction?

Mr. DENHAM. On the question for contempt he made his finding, of course; an injunction was indicated.

Senator HUMPHREY. An injunction on the basis of possible cause restraining order.

Mr. DENHAM. Yes.

Senator HUMPHREY. First of all there was an injunction by Judge Swygert. I think the date was somewhere in March, was it not?

Mr. DENHAM. As I recall, sometime in March.

Senator HUMPHREY. March 1948. The contempt was in August of 1948.

Mr. DENHAM. That is substantially correct; yes, sir.

Senator HUMPHREY. I have a whole series of questions on this. I think this is a clear indication of what we are talking about, about the weakness and sometimes the actual threatening of abuse of legal power in the injunction, because here the NLRB has not decided on the merits of this case. There is just simply a statement of probable cause.

If my notes serve me well here, and I have been reading up on this for the last 4 or 5 days because I have heard a lot about it and there have been many charges; even the distinguished Senator and our distinguished President got into some arguments about this case sometime last summer, and I think it is one of the clear points about the Taft-Hartley Act and the powers of the general counsel and the use of the injunctions that have to be thoroughly investigated.

Senator TAFT. If it is going to be thoroughly investigated, then I would prefer to proceed with my line of questioning first and get through. We will come back to it, no doubt.

Senator HUMPHREY. It is undoubtedly the most pointed demonstration of exactly what happens under the Taft-Hartley Act when you can step in and get an injunctive relief on probable cause, and then to get a contempt proceeding on probable cause which punishes the union extremely, all on the basis of no judicial determination at all on the merits of the case.

Senator TAFT. On the finding that the union refused to bargain collectively.

Senator HUMPHREY. Before whom?

Senator TAFT. The trial judge, the judge appointed by President Roosevelt.

Senator HUMPHREY. There has been no finding on that at all. There was an injunction on probable cause, that is all. There has been no finding.

Senator DONNELL. Senator Taft, I have in my hands, although I have not read this yet, but it was handed to me a moment ago, what

purports to be the text of Judge Swygert's findings and decree. Here is findings of fact and conclusions of law, findings of the fact over here, several pages.

Senator TAFT. Yes; I do not think there is any question about it.

Senator HUMPHREY. I think there is a question.

Senator TAFT. Well, I only suggest that I have not brought up the case because I knew that Mr. Randolph was going to testify and others. I would rather, if I may, finish my line of investigation.

Senator HUMPHREY. All right, I yield.

Senator MORSE. Will the Senator from Ohio permit me to ask the Senator from Ohio a question?

Senator TAFT. Yes.

Senator MORSE. I have worked, as the Senator knows, drafting amendments to the administration bill which I hope will eventually take the form of a new bill. I want to be sure that I understand the Senator from Ohio correctly.

Did the Senator from Ohio say that he would not have any particular objection to dropping the injunctive processes under 10 (l) provided the injunctive processes under 10 (j) remained?

Senator TAFT. My real interest is in 10 (j); 10 (l), I think, at least, leaves the bill open to the charge that it is one-sided in favor of the employer against the employees, and also it does deprive the board of some discretion which I think probably they ought to have.

I think, though I do not want to take a final position on it, just indicating what might be an impression——

Senator MORSE. That indication will help me in my work. At least the Senator's position is that 10 (l) ought to be worked over some.

Senator TAFT. Yes; I think so; that certainly.

Senator HUMPHREY. I would like to ask the Senator if he would be willing in a case such as the ITU case, where you have had four restraining orders, I believe—is that not right, Mr. Denham? There have been four separate actions?

Mr. DENHAM. Well, there were four cases filed, but I do not think there were four restraining orders. We had only one injunction. That was the one before Judge Swygert.

Senator HUMPHREY. The Baltimore case, for example.

Mr. DENHAM. The Baltimore case involved the printing industry.

Senator HUMPHREY. Do you not think it would have been well to have processed that one all the way through rather than just leaving it still coasting?

Mr. DENHAM. It is still pending.

Senator HUMPHREY. That is what I mean; it is still pending.

Senator TAFT. Is that not because Mr. Randolph is simply defying the terms of the law?

Mr. DENHAM. Well, gentlemen——

Senator HUMPHREY. Are you asking the question?

Senator TAFT. I am asking the question.

Mr. DENHAM. These cases are still pending before the Board. They have been presented. The trial examiners have issued their intermediate reports.

Senator HUMPHREY. By the way, there have been some differences among the trial examiners, too, have there not, in these cases?

Mr. DENHAM. Yes. They have followed individualistic lines.

Senator HUMPHREY. Yes. In other words, they have not agreed.

MR. DENHAM. They have not agreed on all four but they have all reached the ultimate conclusion the ITU was guilty of unfair labor practices.

Senator HUMPHREY. Have they?

MR. DENHAM. Yes, sir.

Senator MORSE. Mr. Chairman, I would like to make a suggestion, if the Senator from Minnesota will permit me, in regard to this line of questioning. I think it is perfectly proper when he takes over the witness to examine the witness in regard to the witness' participation in these cases insofar as the general counsel's duties are concerned, but I do think the witness is entitled to the protection of not being called upon to pass judgment upon any substantive matter pending before the Board.

Senator HUMPHREY. Senator, I reserve the right of the witness to at any time say he does not wish to answer, but in your words I also reserve the right to put into the record the material which will provide the case that I may want to use.

Senator MORSE. I certainly will do nothing to stop the Senator from doing that. I said we want to raise the question of the problem that this witness has.

Senator HUMPHREY. I appreciate that.

Senator MORSE. The committee should point it out rather than the witness himself in regard to substantive matters pending before the Board.

Senator HUMPHREY. I respect his desire to either answer or not to answer at any time because I know that he is a Government official and he cannot always come up with everything that we may want.

MR. DENHAM. I am trying to lay the foundation to be excused on that request. I was doing that just before the last question was asked, Senator Humphrey.

Senator HUMPHREY. I yield. I have got a lot of them to ask you later on.

Senator TAFT. Mr. Denham, just going back a bit, on the general question of whether there should be the right to seek a temporary injunction against an unfair labor practice, you think that is of value?

MR. DENHAM. I think it is of great value.

Senator TAFT. Is it not true that in the case of secondary boycott, for instance, one of the unfair labor practices, the inability to get a temporary injunction might completely defeat the purpose of making that an unfair labor practice?

MR. DENHAM. Very definitely.

Senator TAFT. In other words, it would take a number of months for the Board to process the whole thing and in the meantime the operation of a secondary boycott might reach its goal.

MR. DENHAM. If the processes of the Board and of the agency could be speeded up to the point where there was just a short time lag between the occurrence of the event and the filing of the charge, on the one hand, and the final disposition, then you could expect those who are affected by these things to accept those as risks of the trade, but unfortunately the time lag between the filing of charges and the decision by the Board has been something astounding.

I have here a group of charts and data on practically all of the charted history of the operation of the Board under the Labor-Man-

agement Relations Act, and much of it shows a relation to the operations under the Wagner Act, which conceivably might be of some value to the committee, if the committee desires it.

Senator TAFT. Mr. Denham, while you have that there, and also this compendium of cases under 8 (b), is that, or 8 (a), or both—

Mr. DENHAM. These are all 10 (l) and 10 (j) injunction cases, nothing other than that.

Senator TAFT. I see. Could that be filed with the committee or be made a part of the record if we wish to have it?

Mr. DENHAM. I should like to file it, if I may, but withdraw it long enough to have some photostatic copies made of it.

Senator TAFT. Yes. In fact, you may file the photostatic copies.

Mr. DENHAM. This is the only copy I have.

Senator MORSE. If you are going to have photostatic copies, could you not have one made for each member of the committee?

Senator TAFT. You can keep the original if you have photostatic copies made.

Senator MORSE. I would like to have that.

Mr. DENHAM. I have copies of the other series of charts enough to supply the committee.

Senator DONNELL. What was that?

Senator TAFT. The length of time it takes to have different cases processed.

Mr. DENHAM. The charts cover the cases that have been processed, the number of them. It shows the trend, the peaks, the valleys, and how fast the operations have been carried on in all stages of the operations from the beginning.

Senator TAFT. I ask that this be made part of the record, Mr. Chairman.

Senator MURRAY. It may be made part of the record.

(The charted history referred to was submitted by Mr. Denham as follows:)

#### CHARTED HISTORY OF OPERATIONS UNDER LMRA, AUGUST 22, 1947, TO DECEMBER 31, 1948

##### DEFINITION OF CASE SYMBOLS

##### *Under Wagner Act*

Unfair labor practice charges:

C cases---- Cases based on charges against employers.

Representation petitions:

R cases---- Petitions filed by labor organizations.

RE cases-- Petitions filed by employers.

##### *Under Taft-Hartley Act*

Unfair labor practice charges:

CA cases-- Cases based on charges against employers.

CB cases-- Cases based on charges against labor organizations.

CC cases-- Cases against labor organizations under section 8 (b) (4) when applications for injunction are mandatory.

CD cases-- Cases against labor organizations, involving jurisdictional strikes or disputes.

Representation petitions:

RC cases-- Petitions filed by labor organizations or individuals.

RM cases-- Petitions filed by employers when a labor organization has requested recognition.

RD cases-- Petitions by employees to decertify an incumbent union.

Union authorization petitions:

UA cases-- Petitions for union shop elections.

CHART 1.—All cases received, cases closed, cases pending at end of the month, Aug. 22, 1947, to Dec. 31, 1948

	Cases received	Cases closed	Cases pending		Cases received	Cases closed	Cases pending
Aug. 22 to Sept. 1947.	611	508	<sup>1</sup> 4,036	May.....	4,795	5,966	13,254
October.....	964	367	4,635	June.....	5,223	5,742	12,700
November.....	1,382	794	5,219	July.....	3,746	4,588	11,800
December.....	2,064	1,432	5,833	August.....	3,496	4,912	10,371
January 1948.....	3,008	1,566	7,237	September.....	3,082	4,054	9,348
February.....	4,528	2,285	9,468	October.....	2,421	3,641	8,081
March.....	6,230	3,538	12,150	November.....	2,092	2,941	7,169
April.....	6,968	4,632	14,467	December.....	1,662	2,705	6,110

<sup>1</sup> This includes 3,933 cases carried over from the Wagner Act operations.

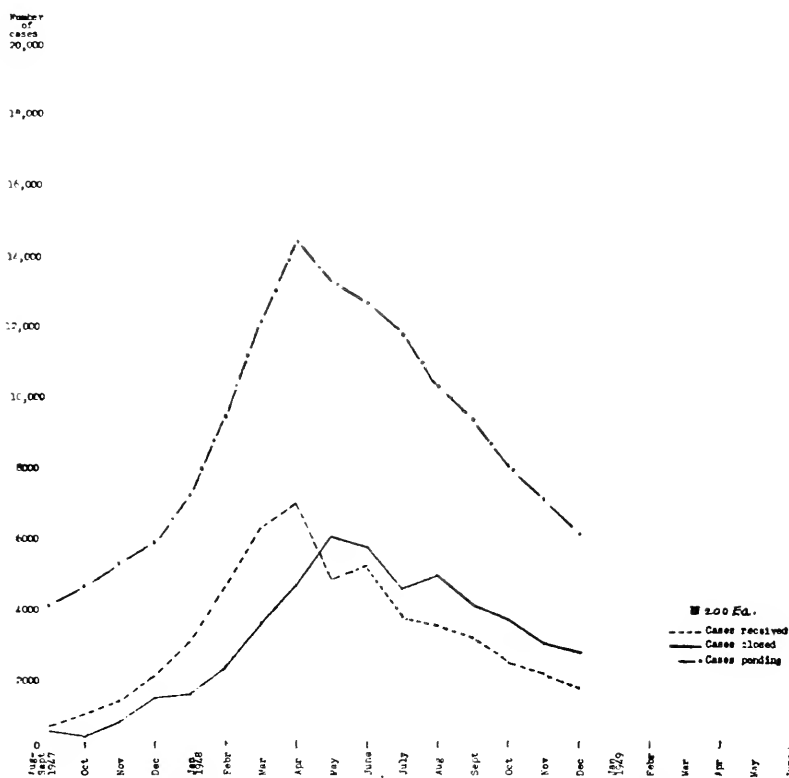




CHART 2.—*Unfair labor practice cases received, closed, and pending at the end of the month, Aug. 22, 1947, to Dec. 31, 1948*

	Cases received	Cases closed	Cases pending		Cases received	Cases closed	Cases pending
Aug. 22-Sept. 1947..	407	261	2, 239	May.....	271	268	2, 448
October.....	440	175	2, 503	June.....	321	354	2, 412
November.....	257	191	2, 568	July.....	317	291	2, 424
December.....	239	439	2, 359	August.....	373	380	2, 420
January 1948.....	323	266	2, 406	September.....	561	389	2, 578
February.....	301	248	2, 451	October.....	373	321	2, 615
March.....	411	362	2, 499	November.....	394	361	2, 631
April.....	314	373	2, 442	December.....	410	344	2, 694

<sup>1</sup> Included 483 complaint cases filed under Wagner Act.

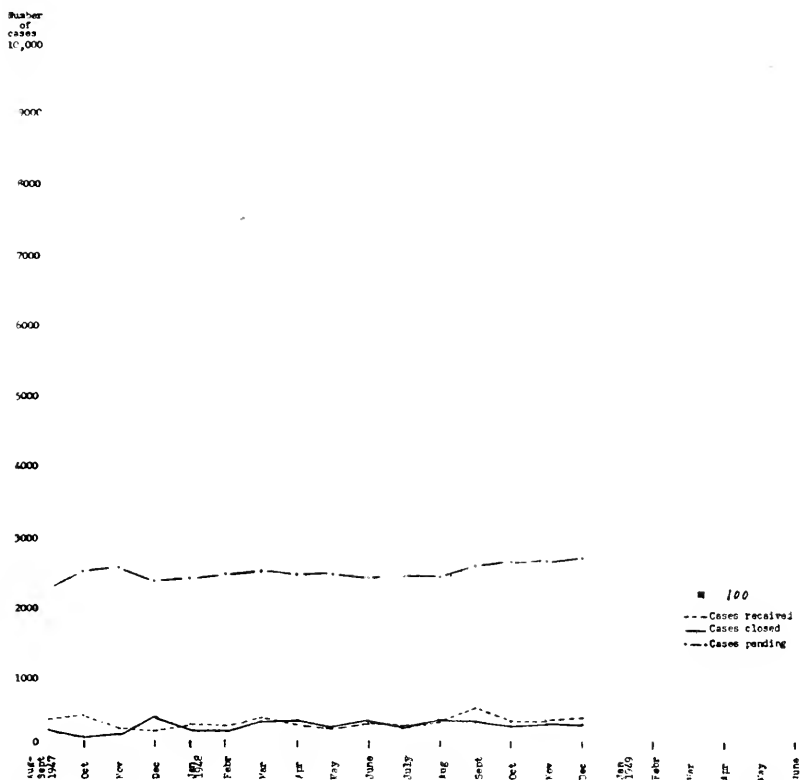


CHART 3.—*Representation cases received, closed and pending at the end of the month, Aug. 22, 1947, to Dec. 31, 1948*

	Cases received	Cases closed	Cases pending		Cases received	Cases closed	Cases pending
Aug. 22 to September 1947.....	195	247	1,788	May.....	765	797	2,644
October.....	385	180	1,996	June.....	949	745	2,843
November.....	525	500	2,016	July.....	778	813	2,801
December.....	479	529	1,957	August.....	853	900	2,748
January 1948.....	566	491	2,017	September.....	633	863	2,502
February.....	663	473	2,207	October.....	717	872	2,339
March.....	941	639	2,506	November.....	705	741	2,291
April.....	919	724	2,697	December.....	540	864	<sup>1</sup> 1,963

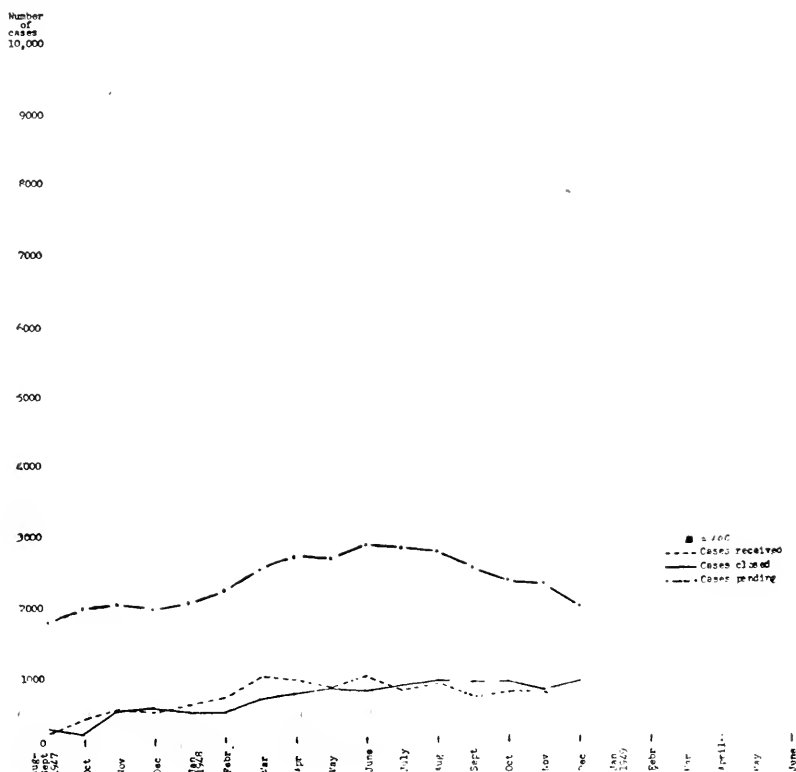
<sup>1</sup> Included 66 cases filed under Wagner Act.

CHART 4.—*Union security authorization cases received, closed, and pending at the end of the month, Aug. 22, 1947, to Dec. 31, 1948*

	Cases received	Cases closed	Cases pending		Cases received	Cases closed	Cases pending
Aug. 22 to Sept. 1947	9	0	9	May	3,759	4,901	8,162
October	139	12	136	June	3,953	4,643	7,445
November	600	103	635	July	2,651	3,481	6,575
December	1,346	464	1,517	August	2,270	3,632	5,203
January, 1948	2,119	809	2,814	September	1,888	2,802	4,268
February	3,564	1,565	4,810	October	1,331	2,448	3,127
March	4,878	2,537	7,145	November	993	1,839	2,247
April	5,735	3,535	9,328	December	712	1,497	1,453

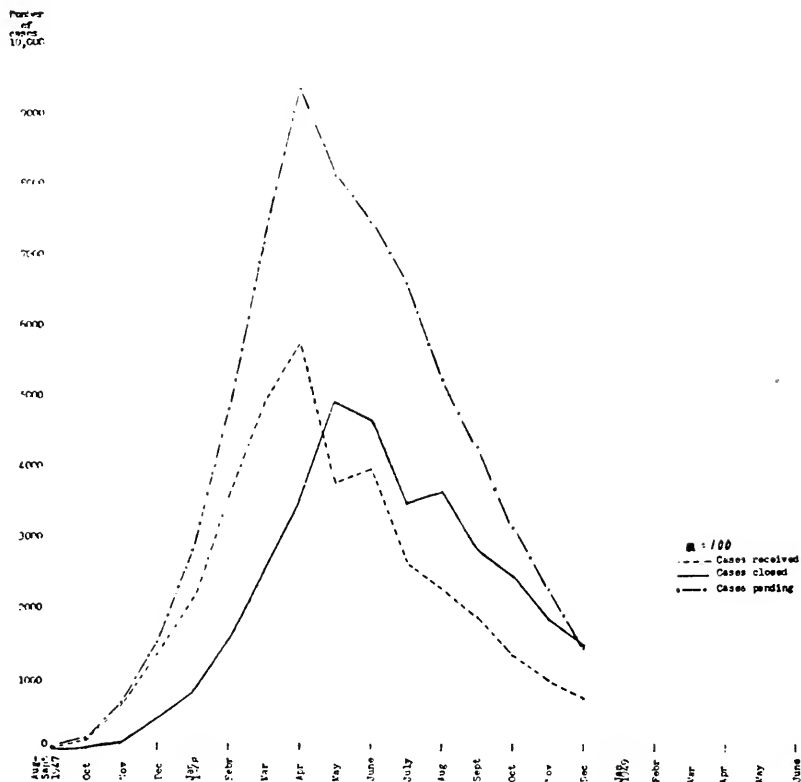


CHART 5.—Cases filed with National Labor Relations Board, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	All cases	Unfair labor practice cases	Representation cases	Union security cases
Aug. 22 to September 1947.....	611	407	195	9
October.....	964	410	385	139
November.....	1,382	257	525	600
December.....	2,064	239	479	1,346
January 1948.....	3,008	323	566	2,119
February.....	4,528	301	663	3,564
March.....	6,230	411	941	4,878
April.....	6,968	314	919	5,735
May.....	4,795	271	765	3,759
June.....	5,223	321	949	3,953
July.....	3,746	317	778	2,651
August.....	3,496	373	853	2,270
September.....	3,082	561	633	1,888
October.....	2,421	373	717	1,331
November.....	2,092	394	705	993
December.....	1,662	410	540	712

Number  
of  
cases  
10,000

9000

8000

7000

6000

5000

4000

3000

2000

1000

0

Aug. 22 to Sept. 1947 Oct. Nov. Dec. Jan. 1948 Feb. Mar. April May June July Aug. Sept. Oct. Nov. Dec. 1948

■ All cases  
— Unfair Labor Practice Cases  
- - - Representation Cases  
- - - Union Security Cases

1949 Feb. Mar. April May June

CHART 6.—*Unfair labor practice cases filed with the National Labor Relations Board, Aug. 22, 1947, to Dec. 13, 1948, by type of case*

	CA cases	CB cases	CC cases	CD cases
Aug. 22 to September 1947.....	335	42	25	5
October.....	351	37	38	14
November.....	197	35	19	6
December.....	178	33	22	6
January 1948.....	252	39	28	4
February.....	232	52	11	6
March.....	317	63	23	8
April.....	247	39	20	8
May.....	193	45	30	3
June.....	241	50	24	6
July.....	241	54	22	0
August.....	276	61	23	13
September.....	453	69	30	9
October.....	297	52	22	2
November.....	316	63	14	1
December.....	324	58	22	6

Number  
of  
cases  
500

450

400

350

300

250

200

150

100

50

0

Aug.

1947

Oct.

Nov.

Dec.

Jan.

1948

Febr.

Mar.

Apr.

May

June

July

Aug.

Sept.

Oct.

Nov.

Dec.

1949

Febr.

Mar.

Apr.

May

June

■ 5

--- CA Cases

— CB Cases

- - - CC Cases

- - - CD Cases

CHART 7.—Representation cases filed with the National Labor Relations Board, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	RC cases	RM cases	RD cases		RC cases	RM cases	RD cases
Aug. 22 to September 1947.....	102	35	58	May.....	665	54	46
October.....	295	45	45	June.....	842	48	59
November.....	449	39	36	July.....	671	73	34
December.....	382	43	54	August.....	755	52	46
January 1948.....	496	43	27	September.....	573	30	30
February.....	579	50	34	October.....	655	33	29
March.....	833	56	52	November.....	641	32	32
April.....	831	43	45	December.....	491	21	28

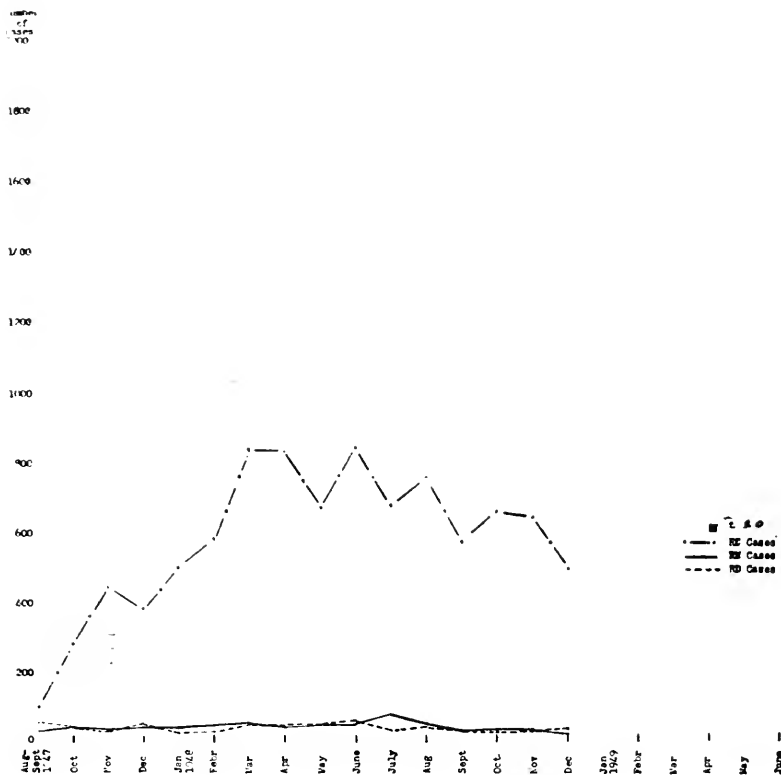


CHART 8.—All cases pending at the end of the month, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	All cases	C cases	R cases	UA cases
Aug. 22 to September 1947.....	4,036	2,239	1,788	9
October.....	4,635	2,503	1,996	136
November.....	5,219	2,568	2,016	635
December.....	5,833	2,359	1,957	1,517
January 1948.....	7,237	2,406	2,017	2,814
February.....	9,468	2,451	2,207	4,810
March.....	12,150	2,499	2,506	7,145
April.....	14,467	2,442	2,697	9,328
May.....	13,254	2,448	2,644	8,162
June.....	12,700	2,412	2,843	7,445
July.....	11,800	2,424	2,801	6,575
August.....	10,371	2,420	2,748	5,203
September.....	9,348	2,578	2,502	4,268
October.....	8,081	2,615	2,339	3,127
November.....	7,169	2,631	2,291	2,247
December.....	6,110	2,694	1,963	1,453

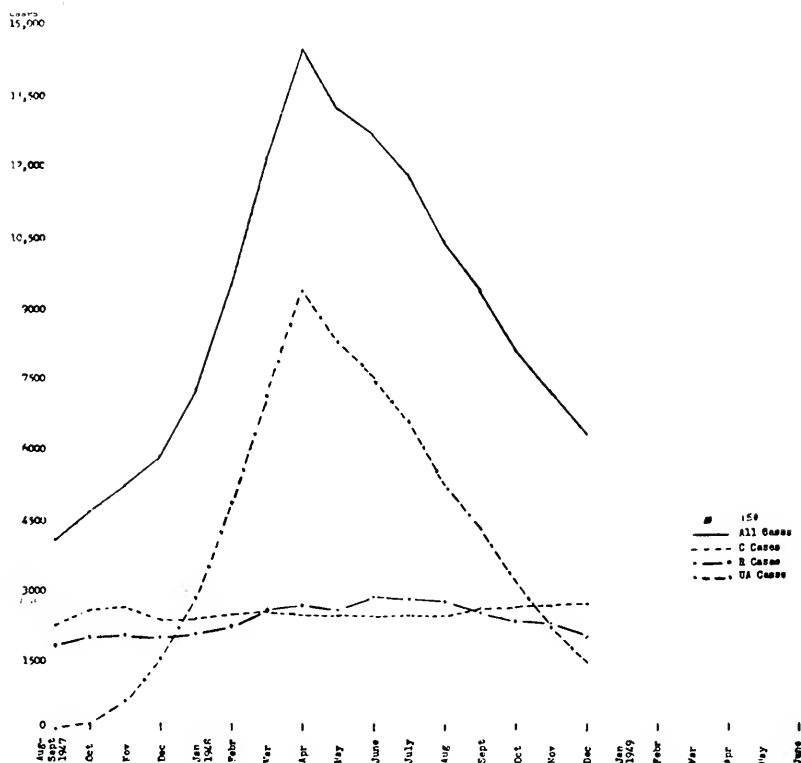


CHART 9.—Unfair labor practice cases pending at the end of the month, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	NLRA C cases	LMRA			
		CA cases	CB cases	CC cases	CD cases
Aug. 22 to September 1947.....	1,846	327	40	21	5
October.....	1,731	641	67	46	18
November.....	1,638	774	84	51	21
December.....	1,312	856	104	62	25
January 1948.....	1,148	1,036	116	78	28
February.....	1,037	1,178	147	59	30
March.....	906	1,322	176	64	31
April.....	822	1,328	180	76	36
May.....	781	1,334	206	92	35
June.....	703	1,388	219	83	19
July.....	642	1,434	250	82	16
August.....	595	1,453	271	76	25
September.....	557	1,631	281	86	23
October.....	530	1,702	280	85	18
November.....	503	1,748	287	80	13
December.....	483	1,817	290	88	16

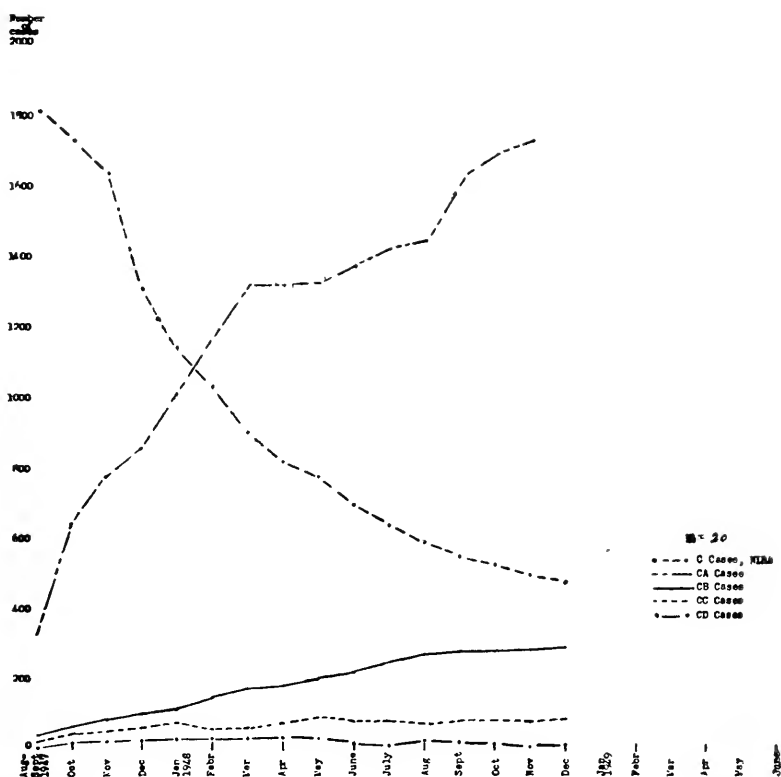




CHART 10.—*Representation cases pending at the end of the month, Aug. 22, 1947, to Dec. 31, 1948, by type of case*

	R cases	RC cases	RM cases	RD cases
Aug. 22-September 1947.....	1,603	100	30	55
October.....	1,481	367	67	81
November.....	1,153	685	85	92
December.....	942	815	78	122
January 1948.....	750	1,064	78	125
February.....	638	1,337	96	136
March.....	517	1,728	117	144
April.....	400	2,036	114	147
May.....	254	2,118	122	150
June.....	205	2,343	124	171
July.....	167	2,323	157	154
August.....	133	2,341	132	142
September.....	102	2,148	118	134
October.....	93	2,024	110	112
November.....	76	2,005	99	111
December.....	66	1,707	92	98

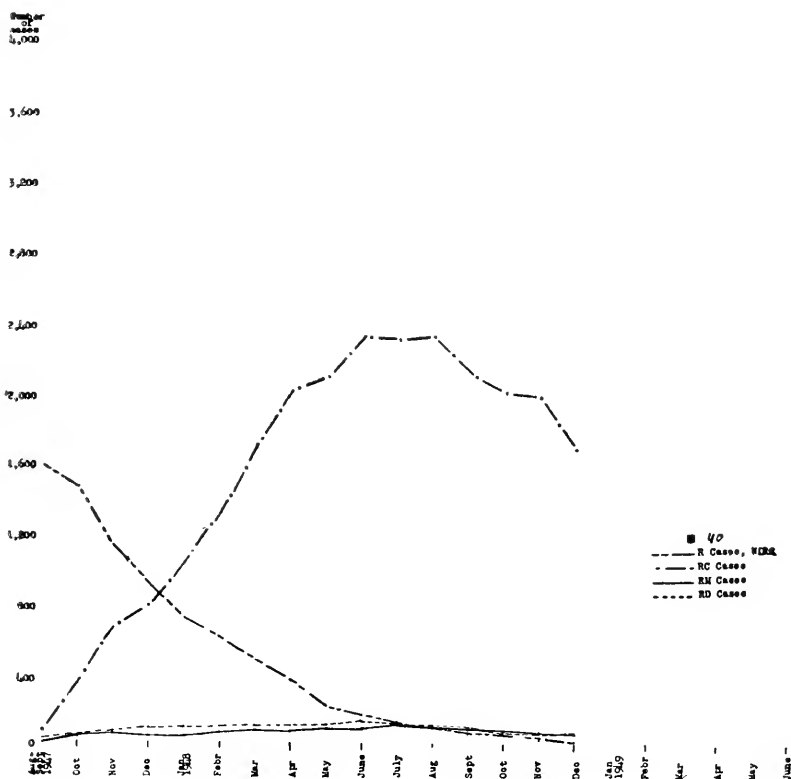


CHART 11.—All cases closed during the month, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	All cases	Unfair labor practice cases	Representation cases	Union security cases
Aug. 22 to September 1947.....	508	261	247	0
October.....	367	175	180	12
November.....	794	191	500	103
December.....	1,432	439	529	464
January 1948.....	1,566	266	491	809
February.....	2,286	248	473	1,565
March.....	3,538	362	639	2,537
April.....	4,632	373	724	3,535
May.....	5,966	268	797	4,901
June.....	5,742	354	745	4,643
July.....	4,588	291	813	3,484
August.....	4,912	380	900	3,632
September.....	4,054	389	863	2,802
October.....	3,641	321	872	2,448
November.....	2,941	361	741	1,839
December.....	2,705	344	864	1,497

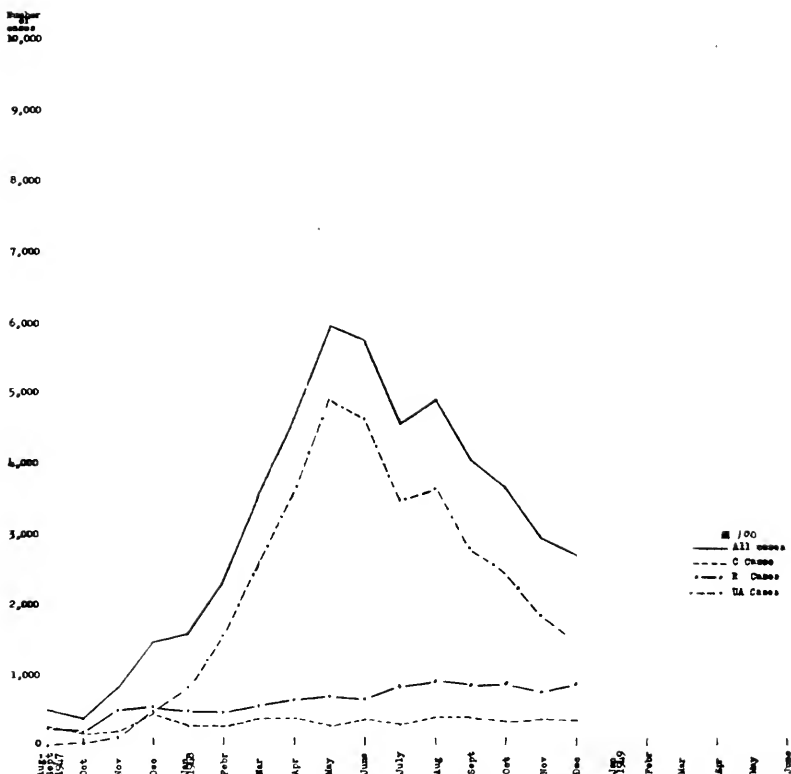


CHART 12.—*Unfair labor practice cases closed during the month, Aug. 22, 1947, to Dec. 31, 1948, by type of case*

	NLRA C cases	LMRA			
		CA cases	CB cases	CC cases	CD cases
Aug. 22 to September 1947.....	247	8	2	4	0
October.....	112	38	10	14	1
November.....	91	64	18	15	3
December.....	319	94	13	11	2
January 1948.....	158	69	27	11	1
February.....	106	87	21	30	4
March.....	132	171	34	17	7
April.....	84	243	34	8	4
May.....	43	188	19	14	4
June.....	76	186	36	34	22
July.....	49	195	21	23	3
August.....	47	258	40	31	4
September.....	37	265	56	20	11
October.....	27	213	51	23	7
November.....	26	258	52	19	6
December.....	20	252	55	14	3

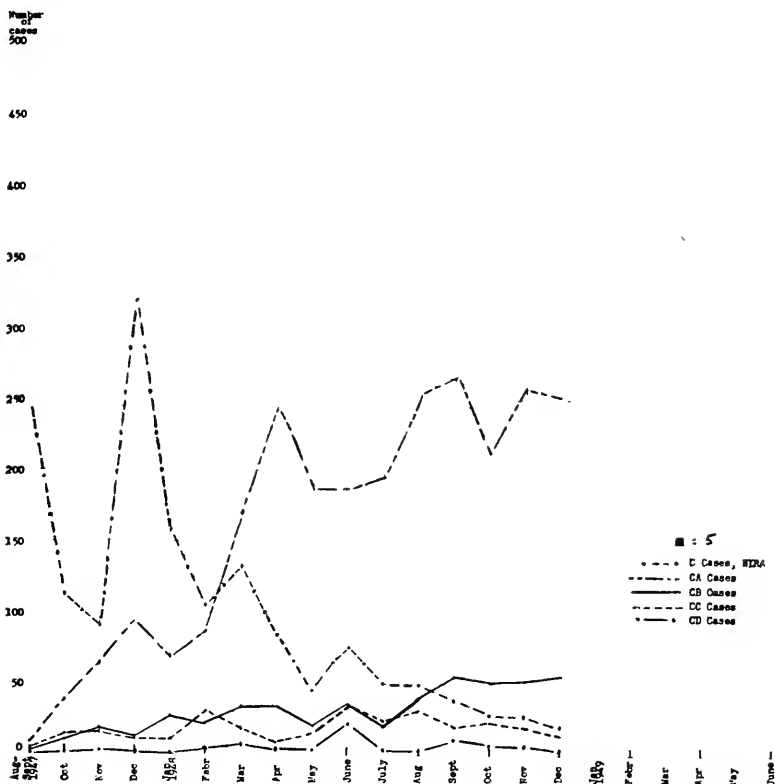


CHART 13.—Representation cases closed during the month, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	NLRA R cases	LMRA		
		RC cases	RM cases	RD cases
Aug. 22 to September 1947.....	237	2	5	3
October.....	118	30	10	22
November.....	325	132	20	23
December.....	209	248	49	23
January 1948.....	185	241	41	24
February.....	112	306	32	23
March.....	119	441	35	44
April.....	117	521	45	41
May.....	144	569	44	40
June.....	56	608	43	38
July.....	37	684	41	51
August.....	34	733	77	56
September.....	31	753	43	36
October.....	8	774	40	50
November.....	17	645	46	33
December.....	10	790	21	40

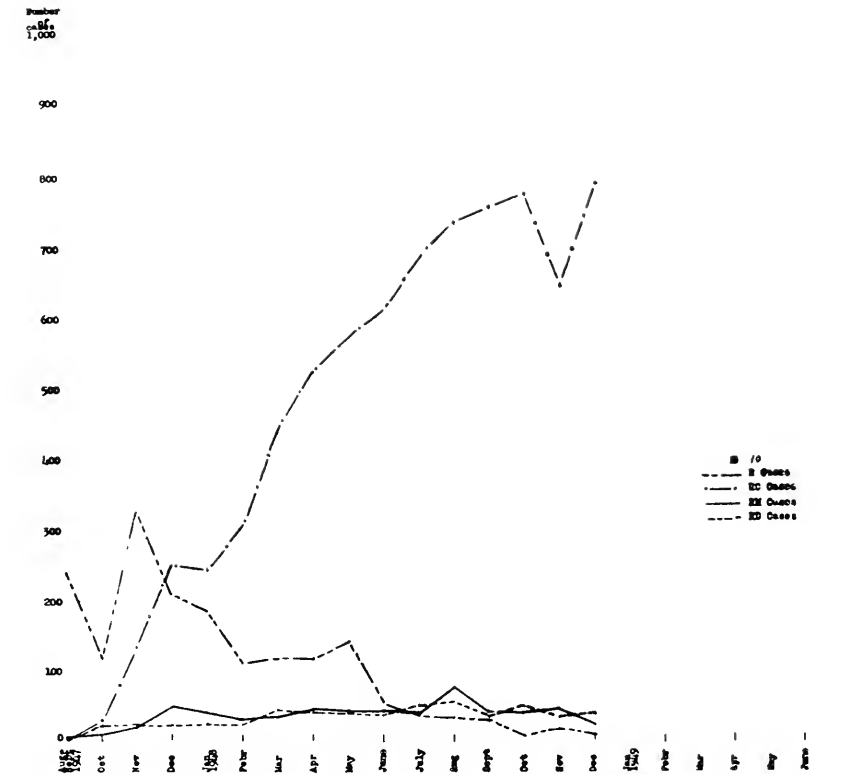


CHART 14.—All elections held during the month, Aug. 22, 1947, to Dec. 31, 1948, by type of election

	R type election	Union security election		R type election	Union security election
Aug. 22 to September 1947.....	1	2	May.....	382	4,816
October.....	55	26	June.....	466	4,021
November.....	159	112	July.....	492	2,795
December.....	275	521	August.....	506	2,999
January 1948.....	198	993	September.....	524	2,340
February.....	274	1,473	October.....	489	1,870
March.....	409	2,755	November.....	429	1,338
April.....	448	3,137	December.....	496	1,028

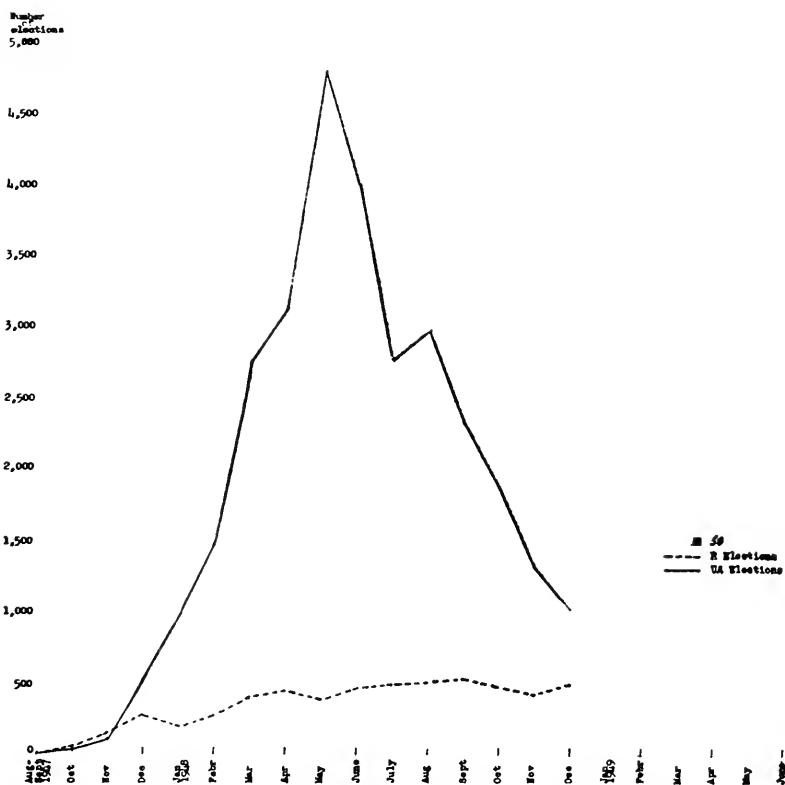


CHART 15.—Representation elections held during the month, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	NLRA R cases	LMRA		
		RC cases	RM cases	RD cases
Aug. 22 to September 1947.....	0	1	0	0
October.....	18	30	2	5
November.....	51	101	1	6
December.....	59	192	16	8
January 1948.....	29	153	8	8
February.....	41	217	8	8
March.....	59	320	10	20
April.....	31	391	16	10
May.....	25	328	14	15
June.....	33	407	16	10
July.....	22	440	14	16
August.....	13	450	27	16
September.....	15	480	16	13
October.....	2	466	9	12
November.....	2	409	7	11
December.....	3	472	8	13

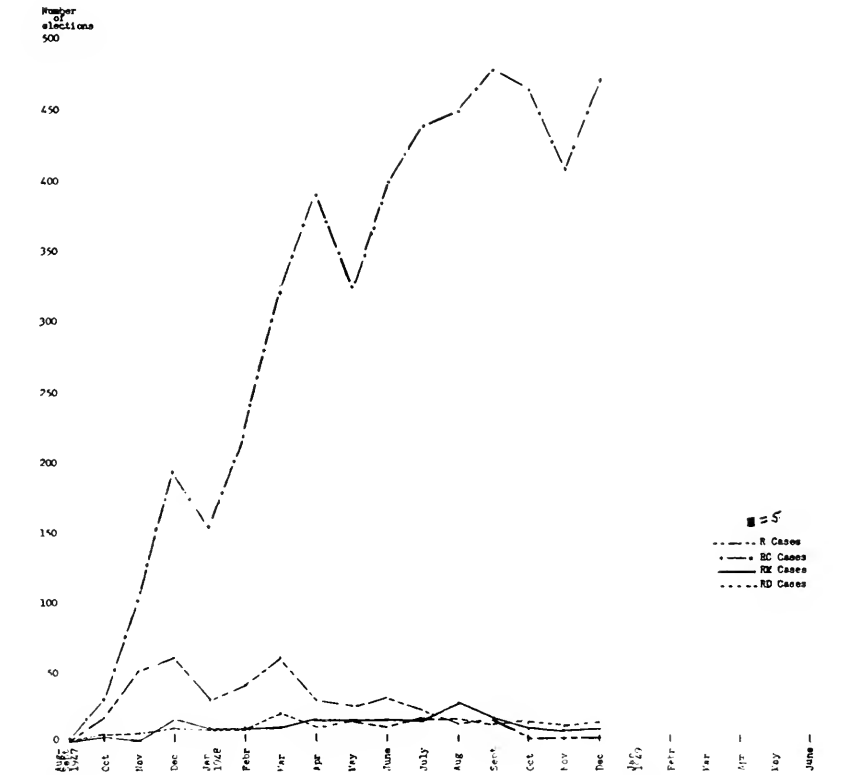


CHART 16.—Number and percent of elections won by a union, Dec. 1, 1947, to Dec. 31, 1948, by type of case

	Total number of elections	R, RE, RC elections <sup>1</sup>			RM elections <sup>2</sup>			RD elections <sup>2</sup>			UA elections <sup>2</sup>		
		Number	Number won	Percent won	Number of elections	Number won <sup>3</sup>	Percent won	Number of elections	Number won	Percent won	Number of elections	Number won	Percent won
December 1947.....	812	267	180	67.4	16	11	68.8	8	2	25.0	521	518	99.4
1948													
January 1948.....	1,191	182	130	71.4	8	7	87.5	8	2	25.0	993	979	98.6
February.....	1,747	258	194	75.2	8	4	50.0	8	3	37.5	1,473	1,451	98.5
March.....	3,164	379	262	69.1	10	8	80.0	20	6	30.0	2,755	2,702	98.1
April.....	3,585	422	321	76.1	16	12	75.0	10	5	50.0	3,137	3,073	98.0
May.....	4,815	353	258	73.1	14	12	85.7	15	6	40.0	4,433	4,344	97.9
June.....	4,487	440	324	73.6	16	10	62.5	10	9	90.0	4,021	3,921	97.5
July.....	3,287	462	360	77.9	14	10	71.4	16	4	25.0	2,795	2,714	97.1
August.....	3,504	463	333	71.9	26	9	34.6	16	5	31.3	2,999	2,900	96.7
September.....	2,864	495	325	65.7	16	8	50.0	13	4	30.8	2,340	2,238	95.6
October.....	2,359	468	318	67.9	9	5	55.6	12	1	8.3	1,870	1,790	95.7
November.....	1,767	411	290	70.6	7	5	71.4	11	5	45.5	1,338	1,298	97.0
December.....	1,521	475	318	66.9	8	7	87.5	13	5	38.5	1,028	995	96.8

<sup>1</sup> R petitions filed under Wagner Act. RE petitions filed by employers under Wagner Act. RC petitions filed by labor organizations or individuals under Taft-Hartley Act.

<sup>2</sup> In these cases, the winning union was the union previously recognized by the employer.

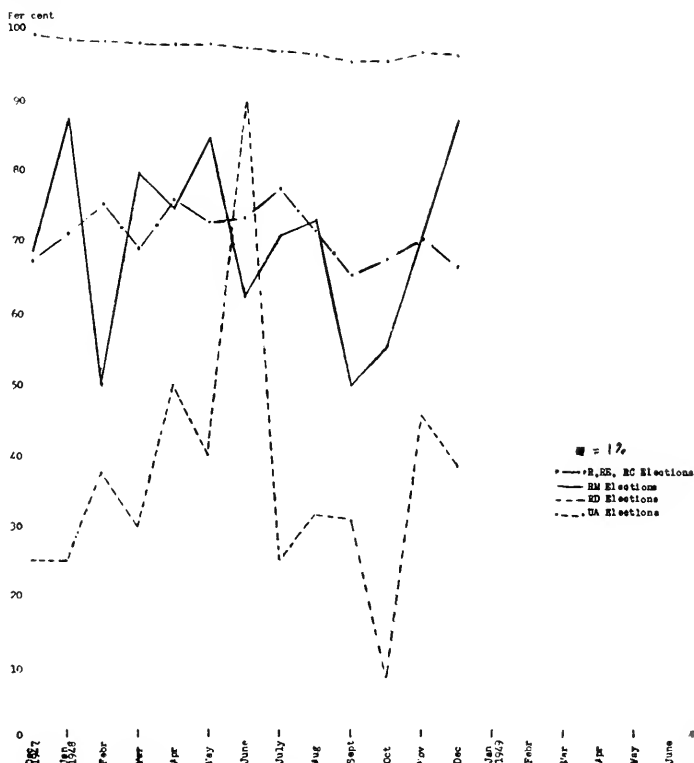


CHART 17.—Complaints issued in unfair labor practice cases, Aug. 22, 1947, to Dec. 31, 1948, by type of case

	NLRA C cases	LMRA			
		CA cases	CB cases	CC cases	CD cases
Aug. 22 to September 1947.....	0	0	1	1	-----
October.....	0	0	1	1	-----
November.....	0	1	5	1	-----
December.....	2	1	1	5	-----
January 1948.....	7	1	4	1	-----
February.....	2	4	1	1	-----
March.....	18	19	3	2	-----
April.....	15	17	2	1	-----
May.....	13	14	2	0	1
June.....	18	26	6	2	1
July.....	13	11	3	0	0
August.....	14	21	6	5	1
September.....	7	24	5	4	1
October.....	6	25	4	5	1
November.....	4	27	4	3	0
December.....	2	17	2	0	0

Number  
of  
complaints

45

40

35

30

25

20

15

10

5

0

■ 1 complaint  
■ C Cases, NLRA  
▨ CA Cases  
▧ CB Cases  
▩ CC Cases

Aug. 1947 Oct. Nov. Dec. Jan. 1948 Feb. Mar. Apr. May June July Aug. Sept. Oct. Nov. Dec. Jan. 1949 Feb. Mar. Apr. May June



CHART 18.—All unfair labor practice cases and representation cases in which decisions were issued, Dec. 1, 1947, to Dec. 31, 1948, by type of case <sup>1</sup>

	Contested decisions	Stipulated decisions		Contested decisions	Stipulated decisions
December 1947.....	34	46	July.....	175	79
January 1948.....	51	62	August.....	167	64
February.....	78	43	September.....	168	81
March.....	85	65	October.....	113	73
April.....	97	77	November.....	188	68
May.....	112	110	December.....	142	54
June.....	109	117			

<sup>1</sup> Figures based on report issued by Office of Executive Secretary.

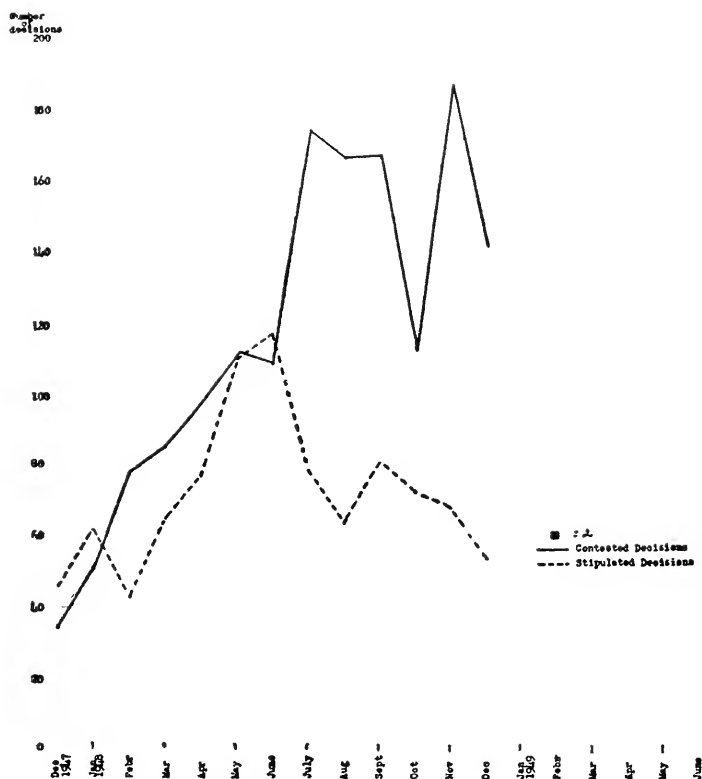


CHART 19.—*Number and type of decisions issued in unfair labor practice cases and representation cases, Dec. 1, 1947, to Dec. 31, 1948*<sup>1</sup>

	Contested decisions		Stipulated decisions	
	C cases	R cases	C cases	R cases
December 1947.....	11	23	0	46
January 1948.....	16	35	0	62
February.....	14	64	1	42
March.....	15	70	2	63
April.....	11	86	4	73
May.....	12	100	4	106
June.....	11	98	2	115
July.....	19	156	4	75
August.....	21	146	5	59
September.....	19	149	9	72
October.....	4	109	4	69
November.....	18	170	6	62
December.....	19	123	5	51

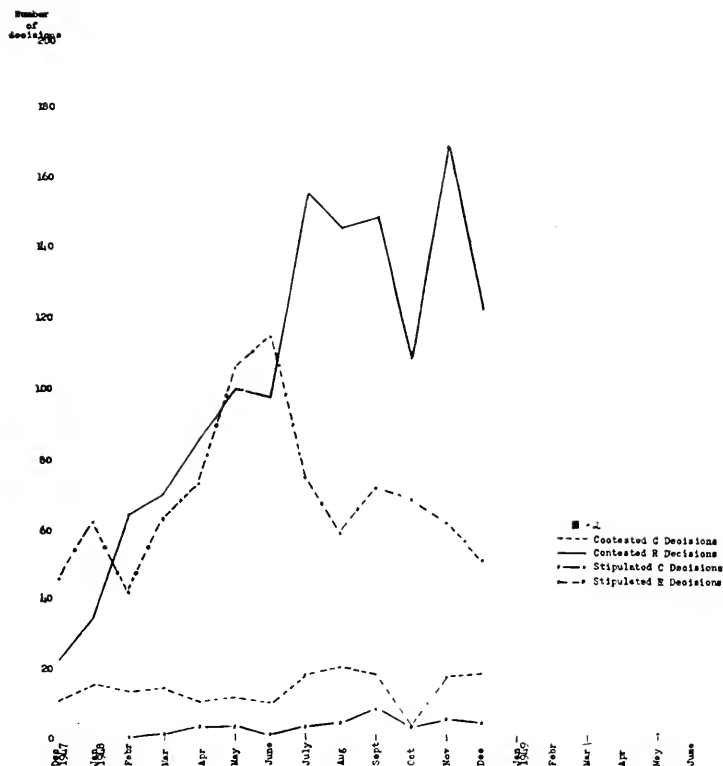
<sup>1</sup> Figures based on report issued by Office of Executive Secretary.

CHART 20.—*Number and type of cases awaiting decisions at the end of the month, Dec. 1, 1947, to Dec. 31, 1948*<sup>1</sup>

	All cases	C cases	R cases		All cases	C cases	R cases
December 1947.....	417	178	239	July.....	536	139	397
January 1948.....	429	165	264	August.....	497	132	365
February.....	415	151	264	September.....	431	124	307
March.....	508	138	370	October.....	479	134	345
April.....	473	140	333	November.....	424	132	292
May.....	511	136	375	December.....	406	128	278
June.....	541	141	400				

<sup>1</sup> Figures based on report issued by Office of Executive Secretary.

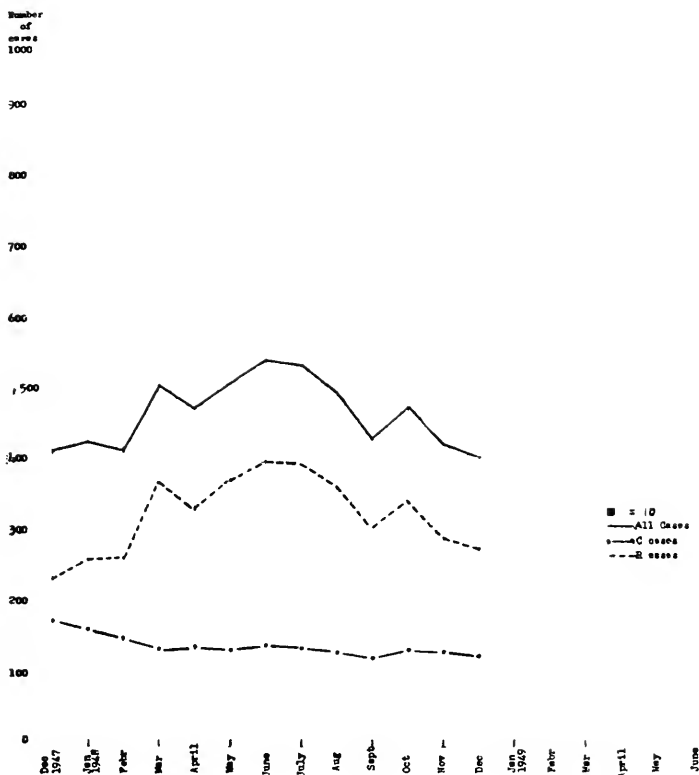
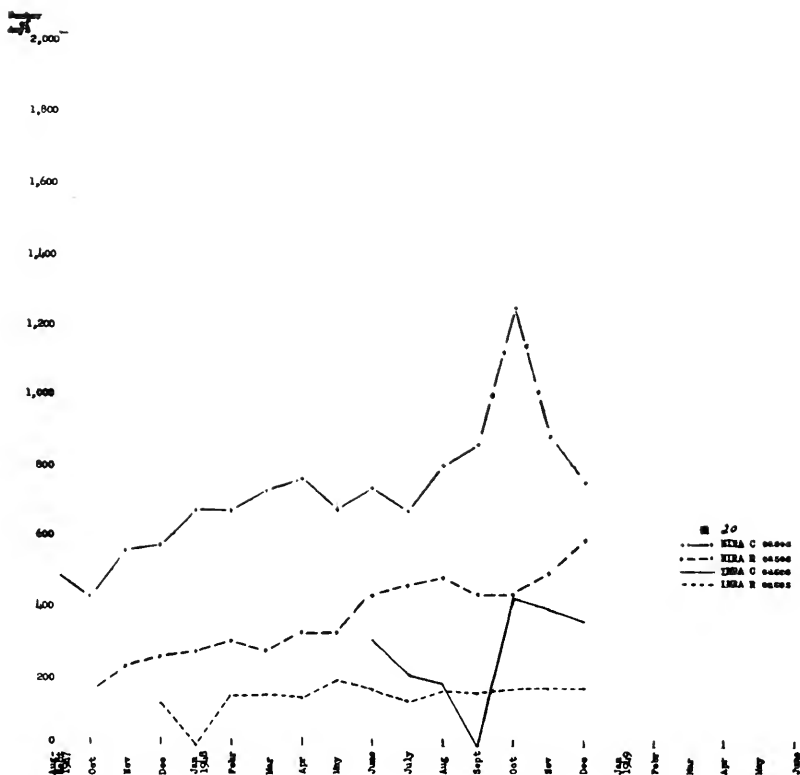


CHART 21.—Average time from filing to decision issued in unfair labor practice cases and representation cases decisions issued, Aug. 22, 1947, to Dec. 31, 1948

	NLRA C cases	NLRA R cases	LMRA R cases	LMRA C cases
Aug. 22 to September 1947.....	496.0	—	—	—
October.....	428.0	151.0	—	—
November.....	556.0	226.0	—	—
December.....	571.0	252.6	121.0	—
January 1948.....	669.0	266.4	—	—
February.....	669.0	298.3	138.4	—
March.....	726.9	273.3	146.4	—
April.....	760.3	324.4	138.8	—
May.....	676.0	324.0	185.5	—
June.....	728.0	430.3	170.4	301
July.....	668.5	458.0	131.3	211
August.....	800.7	481.0	158.5	174.5
September.....	863.5	436.0	154.2	—
October.....	1,252.5	436.0	167.1	421.0
November.....	886.0	496.0	162.8	391.0
December.....	758.0	586.0	163.9	346.0



Senator TAFT. Mr. Denham, going back again, you filed some of these 10 (j) and (10 (l) injunctions, or 10 (j) injunctions against employers as well as against employees?

Mr. DENHAM. Oh, yes.

Senator TAFT. There are cases called to my attention relating to a pension fund.

Mr. DENHAM. That is the General Motors case. That was a case where we went in ex parte, as I recall. Mr. Reuther and his counsel came to the office and explained the situation they were up against.

Here was a case involving the pension fund, the social security, or rather the employees' security measures that were in existence. They had discussed that, apparently, in setting up their previous contract and in the contract had set out a recital.

They had been unable to agree on that and they were setting that aside for further negotiation. The General Motors Corp. unilaterally determined that they had what they thought was a better plan and they announced it was going to go into effect with the next 2 or 3 days.

It could have affected the employees very adversely, had it not been as good a plan as the one they had, and that I do not know anything about except that Mr. Reuther charged it was not as good as the one they had. The one they wanted to put in could very seriously have affected a quarter of a million employees in the General Motors Corp.

He wanted me to do what I could to get a restraining order. Mr. Findling and I went to New York. We talked to Mr. Wilson and the attorneys for the company, asking them to set the effective date forward so that they could sit down and talk with Reuther, and they would not do it.

We went into court, made our presentation to the court, and the court issued a restraining order and it was in effect for a short while and then by agreement it was continued in effect for 60 or 90 days, something of that sort, long enough for them to sit down at the table and be able to negotiate.

Now, how far their negotiations went, I do not know, but I do know that had it been allowed to go into effect, it could have had a very serious effect.

Senator TAFT. So you think the value of temporary injunction was of real value in that case?

Mr. DENHAM. It was of real value.

Senator TAFT. In behalf of the labor union?

Mr. DENHAM. In behalf of the union.

Senator TAFT. That was 10 (j)?

Mr. DENHAM. That was the 10 (j) injunction. We had another petition for a 10 (j) injunction in the matter of the Boeing Aircraft. There had been a strike and controversy there that had been running over a long period of time, a year or more. The machinists, as I recall, wanted to get together with the management. They could not get anywhere and the thing was pretty well tied up.

The national security was involved in that case because Boeing was making a very important type of airplane for the Government. We applied for a 10 (j) injunction. The court, on the showing made, said, "Why, these people are not employees. They have forfeited their employee status by failure to comply with section 8 (d)."

We took the position that they had complied with 8 (d) long since and the purpose of that section had been served. The court denied the injunction.

The case was subsequently heard on the charges before a trial examiner. The trial examiner sustained our position. It was ultimately decided by the Board, as I recall, and the Board sustained our position, which was contrary to the holding by the court.

In the meantime, however, the people had been getting together and the necessity for injunction had passed.

Senator TAFT. Mr. Denham, coming to the question of 8 (b) (1) again, in the last section, have you ever had any use for that one, that is, it makes it an unfair labor practice for the union to restrain or coerce an employer in the selection of his representatives for the purposes of collective bargaining?

I think there was some testimony where the unions said, "Well, we may bargain with you, but we will not bargain with Mr. X."

Mr. DENHAM. There have been some cases.

Senator TAFT. "If Mr. Y is around, we will see him, but we will not talk to X."

Mr. DENHAM. There have been some cases of that sort, not many, but there have been enough so as to justify—

Senator TAFT. Of course, the union should not be able to refuse—I mean, an employer has to talk to the representative of the union side.

Mr. DENHAM. There were many cases under the Wagner Act where employers were found to be guilty of unfair labor practices because they refused to talk to X, the business representative of the union who represented their people.

He said, "I will not bargain with you if that fellow is going to sit at the table," and the Board has held that is an unfair labor practice. This thing just cuts the other way.

Senator TAFT. The same point, but the other way.

Mr. DENHAM. I might say, Senator, that that has had its application more frequently with reference to membership and associations than with reference to individuals. I do not recall clearly but one case where there was an individual, but there are a number which involved associations.

Senator TAFT. Mr. Denham, have you any views on 8 (b) (6), this provision about featherbedding?

Mr. DENHAM. The language of the statute as it is now in the present act is, we find, highly restrictive. Our interpretation of it has been a highly restrictive interpretation, and that is to say where there is nothing performed or to be performed—

Senator TAFT. Of course, it was a compromise. The Senate had nothing on the subject. The House had a much more elaborate provision.

My recollection is that we took the position of trying to get the Board to decide whether five men were too many, four men, that was something that we did not want to go into.

Mr. DENHAM. Yes. Well, we have had—

Senator TAFT. What do you think? Do you think that the provision in its present form is valuable or not valuable? Is it worth keeping or is it not worth keeping? What is your idea on that, or ought it to be made more extensive?

Mr. DENHAM. I think probably it should be made more extensive if it is going to kept at all. To illustrate, take the very famous case of the teamsters at the Holland tunnel, who would hold up carriers of green goods coming from North Carolina or southern points. They stopped them there and would say, "Are you a member of the union?" "No." "Well, you cannot go through the tunnel and you cannot deliver your goods unless you have got a member of the union sitting alongside of you."

A man may have his son there. He says, "I do not need anybody else. I know my way around New York City."

"You do not go in there without paying a man to be there with you. Now, then, if you do not want him, why you can pay us \$8.75, which would be his day's wages and he will stay here, but if you do want him, why, he will be sitting alongside of you."

Now, there is a question, were services being performed or not?

Senator DONNELL. Mr. Denham, in that case what would have happened if the farmer just refused to pay anything, just went on in through the tunnel?

Mr. DENHAM. Some of them were treated pretty roughly.

Senator DONNELL. Actually physical violence?

Mr. DENHAM. Yes; there were some of them pulled off their trucks.

Senator TAFT. Suppose there was not physical violence and they got to a warehouse to unload. Was that decree enforced in any way by having those employees refusing to unload?

Mr. DENHAM. As I recall, the decree of the Supreme Court written by Justice Byrnes rather exonerated the union.

Senator TAFT. Yes; I understand that. Was it enforced by a secondary boycott? That is what I was trying to get at.

Mr. DENHAM. I am not sufficiently familiar with the details of it. When we run into the question in the printing industry, for instance, there is a tradition there where a newspaper, where the advertisers in a newspaper have their copy prepared in a separate plant, as is frequently done.

Senator TAFT. I do not want to get off this other question.

Mr. DENHAM. Well, this is a part of the same thing. The printing union will require, "Yes; the newspaper can use this and run it, but sometime in the next 4 or 5 days, a week, 2 weeks or 3 weeks, these men who are employed for the newspaper are going to have to reset it, set it up, get it on the form and everything of that sort, and then tear it down and throw it out."

Senator TAFT. You would say if we are going to try to deal with the featherbedding problem, the section requires further study and thought, so to speak?

Mr. DENHAM. I think so; yes, sir.

Senator TAFT. With reference to 8 (c), relating to free speech, have you, in your capacity, had much occasion to deal with that subject, or has that been mostly before the Board?

Mr. DENHAM. Well, we have to deal with it in almost every case before we issue a complaint. The question of freedom of speech has really been a terribly broad one. It applies not only to the freedom of employers to speak to their employees without promise of reward or threat of punishment, but it also applies to the extent by which the unions can engage in free speech, and we have had that.

It has presented a great many problems to us as to how far it goes, particularly with reference to the picket line and the conduct of unions.

The free-speech doctrine, so far as the employers are concerned, has been pretty well established in the Wagner Act days, and this was simply a little expansion of the doctrine. The Board had rapidly, was by way of reaching almost the same point that is present in 8 (c) now, except that they did reserve the right to take up this so-called free speech, and they found that it fitted into a picture of unfair labor practices to put it there and let it be a part of the basis of a finding.

Now, that has been prohibited by the present section, but so far as the conduct of labor organizations is concerned, that was a new field.

Senator TAFT. Has it in any way liberalized too much the employer's rights in election cases?

Mr. DENHAM. In election cases?

Senator TAFT. Yes.

Mr. DENHAM. There you run into a question of doctrine more than anything else. In the early stages of the Wagner Act the Board took the position, that the election of representatives by employees was their business and none of the business of the employer.

Senator MORSE. Senator Taft, may I ask the witness a question on 8 (c)? I refer, Mr. Denham, to the language of 8 (c), "or be evidence of."

Suppose that on Monday an employer said to an employee, "You ought to get out of that union. I do not think you ought to be working for me and belong to a union." The employee does not get out of the union, and on Tuesday the employer fires him.

Do you think that in a case involving such a set of facts the employee ought to be in the position to show what the employer said as evidence of the employer's reason for firing him?

Mr. DENHAM. In the absence of obvious good cause?

Senator MORSE. Yes.

Mr. DENHAM. I put that as a question.

Senator MORSE. Yes.

Mr. DENHAM. As a trial examiner, I would want to look at that thing. I think it is evidence and there is a connection under circumstances of that sort.

Senator TAFT. Would it not work the other way? Would not the fact that he fired him the next day tend to show that this statement did contain a threat of reprisal?

Mr. DENHAM. It might be. It might be given that interpretation.

Senator MORSE. How in the world under this language, Mr. Denham, and Senator Taft, too, could you possibly show that, for it says, "or be evidence of"? You cannot even offer it in evidence.

Mr. DENHAM. The Board has taken that position, Senator Morse, that it cannot be shown, cannot be handled.

Senator DONNELL. Mr. Chairman, a point of order.

Mr. DENHAM. That is the application we have given it.

Senator DONNELL. The Senate is in session. What is the further ruling as to meeting?

Senator MURRAY. I assume that the Senate will still be in session at 3 o'clock.



Senator TAFT. Maybe not.

Senator MURRAY. If it is not, we will meet here at 3 o'clock.

Senator MORSE. If it is not, we will meet here, and at 7:30 in the caucus room?

Senator MURRAY. Yes.

Senator MORSE. The caucus room of the Senate Office Building.

Senator TAFT. Can you come back at 3 o'clock, Mr. Denham?

Mr. DENHAM. Oh, yes; I am at your disposal, sir.

(Whereupon, at 12:05 p. m., the committee recessed.)

#### EVENING SESSION

(The committee reconvened at 7:30 p. m.)

The CHAIRMAN. The committee will be in order.

Mr. Denham, will you take the stand, please?

Senator Taft, I think you were asking some questions.

#### STATEMENT OF ROBERT N. DENHAM—Resumed

Mr. DENHAM. At this stage, Senator Thomas, I would like to have the permission of the chairman to call up some of my colleagues so they may be handy for conference, some of the members of my staff, who are much more familiar with some of the intimate details of the cases that have been handled so I can confer with them and ask questions about some of these things.

The CHAIRMAN. That is perfectly agreeable with me.

Senator TAFT. Mr. Denham, you have had experience with secondary boycott cases, and you referred to one this morning. We are interested in the definition of secondary boycott. You have read the provision under the new law, have you?

Mr. DENHAM. Yes, sir.

Senator TAFT. That is restricted, is it, much more than under the Taft-Hartley law?

Mr. DENHAM. Well, if I may be perfectly frank, I don't think the description describes the secondary boycott, but the application of it in the subsequent part of the act doesn't seem to bring the description within the application.

Senator TAFT. You mean that the definition of the unfair labor practice is so restrictive that it practically excludes secondary boycotts?

Mr. DENHAM. In my opinion it comes very near doing that.

Senator TAFT. That description is found on pages 6 and 7 of the substitute bill, S. 249. It reads:

It shall be an unfair labor practice for a labor organization to cause or to attempt to cause employees to engage in a secondary boycott, or a concerted work stoppage, to compel an employer to bargain with a particular labor organization as the representative of his employees if—

(a) another labor organization is the certified representative of such employees within the meaning of section 9 of this Act; or

(b) the employer is required by an order of the Board to bargain with another labor organization; or

(c) the employer is currently recognizing another labor organization (not established, maintained, or assisted by any employer action defined in this Act as an unfair labor practice) and has executed a collective bargaining agreement with such other labor organization. \* \* \*

In what respect is that limitation restrictive?

Mr. DENHAM. Secondary boycotts as we have experienced them rarely fall into either one of these three categories that are described here. Of course, it is possible for there to be a secondary boycott under these circumstances, but our experience has not shown that the majority of the cases that come to our attention have fallen into either one or all of these various categories. It is much too restrictive.

Senator TAFT. Would you say that a very small proportion of the total number of secondary boycotts brought to your attention fall within these classifications?

Mr. DENHAM. Very definitely, yes, sir. The descriptive schedule of the mandatory injunction cases, 10 (1) cases, which is now being duplicated for the use of the committee, will demonstrate the very, very few cases that seem to fall within any of these categories.

Senator TAFT. Just as an example, Mr. Denham, my recollection is that we have had a good deal of testimony on this kind of situation. That was last year. For instance, we will say the teamsters union come to a man who is running a small warehouse or a small manufacturing concern and say, "We want your employees"—he is not authorized to talk and has perhaps a dozen employees or so—"to join the teamsters union, and if you don't, we will refuse to carry goods to and from your place of business."

Mr. DENHAM. That is not an infrequent occurrence.

Senator TAFT. That is an effort on the part of the teamsters to extend their teamsters organization to that particular unit.

Mr. DENHAM. That is quite true, and then another one of the very common incidents, which incidentally we had not included within the description of the current law, has been where a local of the teamsters, for instance, would be in a dispute with a given employer, a distributor of some goods or merchandise. The business manager of the teamsters would go into the various offices of their customers and say, "We are having a dispute with the X company down there and we are not carrying any of their merchandise and we would appreciate it if you won't do any more business with them."

That is not a threat directed to the employer, but it is a very effective measure.

Senator TAFT. And directed to a customer who is perhaps not employing the teamsters at all himself.

Mr. DENHAM. That could very well be. They could have a wide range.

Senator TAFT. Have you seen the secondary boycott cases—I think a man from Utah testified to a case of this kind—where the employer, after he received this demand from the teamsters, tried to get his employees to join the teamsters union and they refused to do so?

Mr. DENHAM. I don't have any clear recollection of cases of that sort. There very well may be, Senator. There are literally dozens of these cases that come in and go through that I get only a casual glance at because they have been approved by everybody in the staff and I look through them and O. K. them and let them go on through, so that there may be many of these cases the details of which I cannot recall.

Maybe some of the gentlemen behind me can remember.

Senator TAFT. I will ask you this, and then your assistants may describe any instances.

We had a case testified to and another brought to our attention 2 years ago of manufacturers of neon signs who had, I think in that case, CIO employees.

Mr. DENHAM. If you are talking about the St. Louis case—

Senator TAFT. I was talking about an Ohio case and one in Massachusetts that were brought to my personal attention. The A. F. of L. were the people who hung signs and they refused to hang signs made by that company. Have you any cases of that kind?

Mr. DENHAM. I recall one such case occurring in St. Louis, and there probably are others that I don't remember about, but there have been cases falling in exactly the descriptive category that you have given where the signs were made by men who belonged to the CIO union, and when they were shipped, the A. F. of L. said they wouldn't hang them. There was considerable confusion over it and just how the matter came out I can't tell you.

Senator TAFT. Do you know anything about the DiGiorgio Farm case in California?

Mr. DENHAM. I have a recollection of that case when it came in to us for consideration. That was a case where, as I remember, the DiGiorgio Farms—which, incidentally, is a tremendous concern with agricultural and processing interests all over the United States—became involved with the farm labor union in one of its California operations. They undertook to organize the farm employees of the fruit company. This was the DiGiorgio Fruit Co. operation.

They began picketing the fruit company and then there was a wine company that DiGiorgio owned, and, as I recall, the buildings in which they worked were contiguous.

They began picketing the fruit-company operation, and they then began to picket the wine company, and then they began picketing the other employers with whom the fruit company was doing business.

They enlisted the aid of the teamsters who joined in the picketing and also of the Distillers and Rectifiers International Wine Workers Union, A. F. of L. They extended their picketing and blackout operations to the Italian-Swiss-Colony operation, which is not too far away, and attempted to induce these people to desist from their operations.

The members of the teamsters' union were advised that if they did not refuse to perform service for their respective employers in order to force the employers to cease doing business with the wine company, they would be subject to fines and disciplinary action on the part of the union.

As I say, the members of the farm union picketed the Italian-Swiss Colony, induced their employees not to handle the products of the wine company.

The wine workers' union engaged in strife as a result of this at the Italian-Swiss-Colony operation and induced the employees of that employer not to perform services with the idea of forcing that employer to cease doing business with the wine company. It was a round-robin boycott.

Senator TAFT. The products of this company were then declared hot, so to speak, all over the United States, so that many unions refused to work on them?

Mr. DENHAM. I don't know what the repercussions of that were. You may be confusing something with the Schenley Co. That

occurred in the Schenley Co. operation. They did follow the products to some stores in California, but I don't think they went outside of California in following the products and declaring them hot outside of the State.

Senator TAFT. Have you any knowledge of any of these lumber cases of about 2 years ago? Did any of those continue after the Taft-Hartley law where lumber from sawmills in the Northwest was boycotted throughout the United States?

Mr. DENHAM. We have got lumber cases with us all the time, Senator. I don't know whether they are carry-overs or not, but we have had a number.

Senator TAFT. Of what nature?

Mr. DENHAM. Lumber cases mostly right in the general area of lumber production. I don't recall any cases. Maybe Mr. Johns can tell me.

Mr. Johns tells me that in the Orick Lumber Co. case union men from the woods came down and picketed the mill of the Orick Lumber Co. That matter, however, was not one that we regarded as coming within the secondary-boycott area, and we did not proceed.

Senator TAFT. All employees of the same company?

Mr. DENHAM. Yes. The Potlatch case was one that could have developed into a serious situation, but it was settled before it came around to the question of having to issue injunction.

Senator TAFT. With regard to the closed-shop and open-shop provisions of the act, you have, of course, the case of the ITU, which involved indirectly a closed shop.

What has been your general experience with the provisions about union shops, closed shops, and the unfair labor practices growing out of the imposition of a union shop?

Mr. DENHAM. Under the current law?

Senator TAFT. Under the current law.

Mr. DENHAM. NMU was the case that was almost entirely founded on the demands of the union for a hiring hall, which is a type of preferential hiring, and which is a type of union security contract we think is prohibited under the law in the absence, certainly, of appropriate elections. There have been some cases growing out of violations of that act.

The schedule I have before me indicates that during the fiscal year that ended June 30 there were 70 cases brought under section 8 (b) (2).

Senator TAFT. What do you mean? What were the charges? What was the nature of the charges?

Mr. DENHAM. The charges as a rule would follow pressure on the employer to not hire a given person.

Senator TAFT. The unfair labor practice is:

to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) (3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

Have unions tried to get men discharged or have they refused to accept them?

Mr. DENHAM. Well, I have before me a list of some of the cases which deal with that particular section generally. Most of them grow out of insistences by the union that illegal union security provisions be put in

their contract or that union shop provisions be put in without an election.

However, in the case of the Wilshire Pictures Corp., which is cited as No. 21-CC-38 in our docket, an offer of employment to an applicant which had been made by the employer was withdrawn because the union had stated that it might pull its men off the job if he were hired and that the men might walk off the job if he came on. He was a nonunion man.

Senator TAFT. Had the man applied for admission to the union and been refused?

Mr. DENHAM. No, sir.

Senator TAFT. This was in the first 30 days?

Mr. DENHAM. This was in the first 30 days. He had made an application and an offer of employment was given to him, and before he went to work these incidents took place when the employer was advised apparently that if he was hired the union men would walk off the jobs.

The charges were filed by a rival union, and after the matter was investigated the parties got together and stipulated for a cease and desist order by the Board to correct the condition.

That is the only one that I have immediately before me on that subject.

Senator TAFT. Mr. Denham, the present act eliminates the definition of collective bargaining in the Taft-Hartley law. Do you think that provision is satisfactory and do you think it should or should not be restored?

Mr. DENHAM. You now are referring to section 8 (d), as I gather.

Senator TAFT. Yes; that is correct.

Mr. DENHAM. Section 8 (d), Senator, has given rise to a good many questions as to its sufficiency. It is my thought that the definition of collective bargaining that is contained in the upper or first portion of that section could probably be clarified, refined, or revised somewhat so as to remove some of the objectionable features, the principal one of which seems to be that under that definition some employers and some unions have taken the position: Well, we just don't have to bargain; we don't have to make a proposition.

There is no compulsion to give and take in order to arrive at a ground of mutual understanding there. I think it is a little inconsistent in its language.

Senator TAFT. As to the last section, "but such obligation does not compel either party to agree to a proposal," you would hardly criticize that?

Mr. DENHAM. No.

Senator TAFT. "Or require the making of a concession." Those are the words you think are perhaps too much license for flat refusal?

Mr. DENHAM. Yes, sir; I think those last two statements could be eliminated and something substituted which would be a little more clear as to just what is expected of them.

Senator TAFT. Do you think the act should contain a definition?

Mr. DENHAM. Well, in view of some of the things that have developed over the administration of the Wagner Act, I think that a definition is indicated particularly where some of the things that an employer has failed to do have been held against him as a refusal to

bargain. I am talking now principally about the necessity to offer a counterproposal.

Under the Wagner Act the employer was kept in a state of constant retreat because he was expected apparently by the decisions—this was in the early days, certainly—to make a counterproposal to whatever the union offered.

Well, a counterproposal has to be something better than his last one or it doesn't mean anything. So that I think a definition is not out of place, as was probably indicated at the time the Taft-Hartley Act was passed.

Senator TAFT. What about the proviso regarding the 60-day written notice, et cetera, which is repeated in a somewhat modified form in the Thomas bill?

Mr. DENHAM. The 60-day proviso in section 8 (d) has caused a good deal of controversy, not the kind that causes people to get into battles, but uncertainty as to its meaning, particularly as to its applicability to a contract which may be open for further negotiation.

Senator TAFT. We understand that. That undoubtedly should be corrected.

Mr. DENHAM. I think it is an excellent provision.

Senator TAFT. Omitting that question for the moment, what about the general provision of a straight 1-year contract and then a provision at the end that you must have 60 days' notice? Do you think that is an excellent provision?

Mr. DENHAM. After 10 months your notice should be given to either terminate it or open it.

Senator TAFT. Do you think 60 days is the right length of time, or 30?

Mr. DENHAM. I think 60 days is much the better time, and I like the division. The first 30 days provides in theory a period when the employer and the employee can be canvassing their ground and possibly arriving at an agreement. If they can't do it at the end of 30 days, then is the time for the Conciliation Service to step in and lend their aid to the picture. I think it is a good division of operations.

Senator TAFT. Do you think it has actually operated well except in this one case of the reopening of the contracts?

Mr. DENHAM. I haven't had much experience with the operation, Senator, because that is outside our picture. Conciliation Service is much better equipped to advise you on that.

Senator TAFT. Is there any question of any unfair labor practice in striking before the 60 days is up? Have you had any cases of that kind?

Mr. DENHAM. Well, we had that question raised, you know, in the Boeing case. It was raised by the court, although when the Boeing case was tried, the Board found that there was no breach of it. Now, whether there are other cases that have not come to my attention, I don't know.

In the case of the *United Packinghouse Workers v. Wilson & Company*, which is docketed as case No. 2-CB-45, the New York office, I have this memorandum: The company and union entered into a 2-year renewable agreement on October 8, 1947. It was provided that such agreement could be reopened for wage adjustments once during the initial 2-year term of the agreement, but not before October 8, 1948.

On December 26, 1947, the union submitted demands for wage reopening and struck after the company's refusal to negotiate on a wage increase on the ground that the demand was premature.

A charge was brought by the company and complaint against the union was authorized under section 8 (b) (3), refusal to bargain. The case is still pending.

Senator TAFT. That was a case simply where the union under the express terms of the contract struck during the life of the contract in violation of the contract?

Mr. DENHAM. That is true.

Senator TAFT. Just a straight violation of the contract?

Mr. DENHAM. Straight contract violation. There was no effort there to conform to the 60 days.

Senator TAFT. Is it an unfair labor practice to strike in violation of a contract?

Mr. DENHAM. No. That is not a violation, but it is a violation to attempt to open a contract without giving notice. It is a refusal to bargain, as we construe section 8 (b) (3), and notice not having been given.

Senator MORSE. Senator Taft, will you yield?

Senator TAFT. That doesn't make sense to me. What is it, Senator?

Senator MORSE. I want your permission to go back to a provision of 8 (d).

Senator TAFT. I haven't finished with that, because I don't understand why, when a union strikes in the middle of a contract, it is construed as being a refusal to bargain. I don't understand what the relation is to 8 (b) (3).

Mr. DENHAM. They wanted to open the contract; they were attempting to open the contract at a date considerably earlier than that for which the contract provided.

Senator TAFT. They are not refusing to bargain collectively; they are violating the contract.

Mr. DENHAM. They are violating the contract; that is quite true. They struck in this case, however, and without giving any notice.

Senator TAFT. I should think they would be liable in damages, but I don't see what it has to do with that unfair labor practice.

Mr. DENHAM. We entertained the case on that theory. Maybe we are wrong. That may be a mistake.

Senator TAFT. I can't understand the theory.

Mr. DENHAM. The theory of failure to give any notice at all was a violation of the act.

Senator TAFT. I don't understand that.

Senator MORSE.

Senator MORSE. I only wish to comment on that, that it seems to me in that case Mr. Denham says it is probably a different theory and perfectly all right to try it out; but there in that case if they violated in the middle of their contract and called upon the employer prior to the termination date of their contract to change the contract, they were in violation of their own contract that they had previously signed, and they could be proceeded against on the basis of a contract violation.

Mr. DENHAM. As I say, Senator, I can see the point here; and there is a possibility that this may be one of those places where we did make a mistake; I don't know.

Senator MORSE. I would be surprised if anybody could do the job you have to do under this statute without making some mistakes.

Mr. DENHAM, my question goes back to section 8 (d), the one you have just been discussing with Senator Taft, and I am not sure I correctly understood your observation about that language in the section which reads:

But such obligation does not compel either party to agree to a proposal or require the making of a concession.

Am I correct that that what you said to Senator Taft was in my belief you thought that needed to be rewritten and that some definition should be put into language making perfectly clear the procedure they would have to follow in their collective-bargaining process? What is it that you want in there?

Mr. DENHAM. I would almost be inclined to cut it out entirely.

Senator MORSE. Leave it out entirely?

Mr. DENHAM. Yes, sir.

Senator TAFT. The whole definition or just this "but such obligation"?

Mr. DENHAM. Starting in with the words "but such obligation does not compel."

Senator TAFT. Yes.

Senator MORSE. What about this hypothetical? I am bothered about some of the language that precedes it. We have, in the first part of this section, the words:

for the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party.

Let's assume the hypothetical—granted that it doesn't happen very often, but it does happen—where a union comes in and makes an offer and it says: "That is our best offer; that is the only offer we are going to make; we think it is perfectly fair in all respects; we think we can shorten up this whole proceeding if you employers will recognize that we are not going to horse-trade any further; we have reduced our demands to what we think are the minimum that we can take short of a strike."

Well, the employers say they will think it over and they come back 2 days later and say: "Well, we make these proposals." The union says, "No soap; we told you 2 days ago this is our last offer."

And that proceeds during the period that is encompassed in this provision. Do you think that the union would not be bargaining in good faith?

Mr. DENHAM. Senator, I trade the same way you talk about. I figure what my offer can be and that is that. That is me personally, so I am very sympathetic to the situation you mention. Having been indoctrinated during the previous years in the theory that an employer may not do that, I am afraid I have sort of gotten the idea that there has to be some give and take on the deal, even though somebody may come in and say, "This is my last offer."

There are just a lot of circumstances that will surround every one of these cases as to whether you would be justified in finding that was made in good faith or not.



Senator MORSE. What I am fearful of is that when we attempt, in a statute, to deal with such detailed matters as I think we attempt to deal with here in section 8 (d) by almost telling the parties step by step what they have to do in entering into trades, we seek to do the impossible, because frequently such steps are not realistic at all for the reason that people in perfectly good faith can say, "This is my offer." And the question, it seems to me—or two questions, rather—are:

First, whether or not they are acting in good faith, which is a question of fact, and

Second, whether their offer can be construed to be an offer of caprice, unreasonable, obviously the type of offer that you sometimes get also at the other extreme where the union comes in and lays down an ultimatum.

I don't condone that, but my objection to that section is that it is an attempt to bring the parties into a formula for collective bargaining that is very unrealistic, if we take into account how parties differ in their bargaining practices.

Mr. DENHAM. I thoroughly agree with you, sir, and I think much of that unrealism can be eliminated by taking out these two lines I have just referred to with reference to the obligation to agree to a proposal or to make a concession. I think that is an inherent part of the business of collective bargaining.

Senator TAFT. If you take those out, will you substitute the judgment of the Board as to whether the party was in good faith, or not, in bargaining?

Mr. DENHAM. That is quite correct. There you have to take the surrounding circumstances into consideration in every case. I have seen some cases when the employer would come in and say, "Here it is and there isn't going to be any more." You could look at it, you go into the background of the history, and it was a perfectly absurd offer. I have seen cases where the union did the same thing. They look at you with a straight face and say, "That is all there was to it." But eventually they get together and pretty generally they wind up with something.

Senator TAFT. Mr. Denham, I don't think I asked you whether you had made use for this provision which has to do with excessive or discriminatory fees. Have you ever had cases of that kind?

Mr. DENHAM. There have only been two or three of them that have come to my attention. I don't know whether there have been more that have come in and been disposed of. I am quite certain there are none on which there have been any complaints issued. The cases that have come to us have been such that in our opinion—and if I use the word "my" I am talking about my opinion as backed up by the staff of advisers whom I have and who have done such a marvelous job in helping us to keep this thing going. In our opinion the cases that have come to us have not reflected anything in the nature of excessive fees. We have had some cases where a union charging \$10 had decided they were going to charge \$15 or \$20 or \$25 for initiation fees, and that was the rule and everybody who came in from that time on paid those fees regardless of who they were. Those we don't regard as cases coming within the contemplation of this act.

We had none of the cases which received so much publicity in the early part of and during the war when there were huge sums charged

for work permits and things of that sort, which I think gave rise to the objection. We have seen none recently.

Senator TAFT. Have you had experience with this provision that craft and professional unions may organize separately? Do you have a number of requests for hearings from professional units, engineers, and the like?

Mr. DENHAM. Yes, sir, there have been a fair number of cases where the professional men have wanted to break off, where they had been included in over-all production and maintenance units, and the Board pretty generally has allowed them to follow that.

Senator TAFT. That has been a matter for the Board?

Mr. DENHAM. That is a matter essentially for the Board. We have nothing to do with it except in the first instance when the regional director makes a ruling. They did not come to the general counsel's office.

Senator PEPPER. Will the Senator yield?

Senator TAFT. Yes.

Senator PEPPER. I want to explain that my tardiness was not due to the fact that I had been to the Dewey dinner.

Senator TAFT. I am sorry. I was there until 7 o'clock.

Senator SMITH. My tardiness was due to that fact.

Senator TAFT. In regard to the field service which has to do with elections, this provision regarding the right of the employers to petition for elections, has that been frequently used?

Mr. DENHAM. Up to the end of December there had been 703 such petitions filed and 611 of them had been processed. I can't tell you what the fate of them all was. There were 92 on our books on the 1st of January yet remaining to be finally processed.

Senator TAFT. Has that right been abused? Has it been particularly objected to by unions for employers to call an election?

Mr. DENHAM. I have heard some representatives of unions object to it. No one has brought to my attention any specific instance where there has been an abuse of it.

Senator TAFT. Do you retain or do the field men retain a certain discretion as to how quickly they order those elections?

Mr. DENHAM. Well, if they consent to them, if there is a consent election agreement signed, then the time when they are ordered is by agreement.

Senator TAFT. Suppose it is a contest.

Mr. DENHAM. If they are contested, it goes to the Board and the Board after a hearing will decide whether or not such an election should be ordered and will direct that it be held within 30 days usually of the entry of its direction of election.

Senator TAFT. But that is likely to be quite a long time after the original petition was filed by the employer, isn't it, on representation cases, I mean?

Mr. DENHAM. In all cases there is quite a lag, Senator. I thought I had a figure. Yes, I have one here.

From the time of filing petitions to the issuance of the order directing elections in representation cases the experience from August 22, 1947, to June 30, 1949, was that as to the old Wagner Act cases the time lag was very great and became progressively greater as time went on from August until it ran from 151 days in October 1947 to 586 days in December.

Now the experienced time lag, however, under the current law, is approximately 150 days.

Senator TAFT. So this fear expressed that the employer can snap an election on the union before they are ready, so to speak, is hardly justified by the fact that if they contest the right of election, it will take 6 months, practically, before the election is held?

Mr. DENHAM. Not only that, but a reading of the act will disclose, I think, that the employer may not file such a petition until the union has come in and demanded that it be recognized.

Senator TAFT. Or an individual might come in and claim that he is the appointed representative of the employees?

Mr. DENHAM. Those things have happened possibly once or twice, but don't forget we have a very efficient and effective field staff who investigate every one of these cases, and if there is a phony in them, they pick them out pretty fast.

Senator TAFT. Would you think the employer should have this right to call for elections?

Mr. DENHAM. I do; certainly. It has been our experience in the past that very frequently a labor organization seeking to conduct an organizational campaign will use as a part of its propaganda a demand made on the employer for recognition when it may represent only a handful of people and then publicize the fact that the employer is not playing ball and will not recognize your union and things of that sort.

Senator TAFT. Although, as a matter of fact, they do not represent a majority of his employees?

Mr. DENHAM. That too frequently has been the case. It has been used as a medium—

Senator TAFT. They failed to ask for an election and unless the employer has a right, this can go on indefinitely; is that right?

Mr. DENHAM. The Board recognized that, and they adopted the rule and it was a salutary rule, an awfully good rule, a couple of years ago in the General X-ray case, which in a limited class of cases required a very prompt filing of a petition by the union after demand for recognition.

It is a situation which the Board, I think, could remedy without necessity of legislation.

Senator TAFT. But you see no reason why it should be eliminated?

Mr. DENHAM. No. It doesn't do any harm.

Senator TAFT. Of course, you think if the Board should rule the other way, it might do harm?

Mr. DENHAM. Yes, sir.

Senator TAFT. You mean that the Board may accept this without legislation?

Mr. DENHAM. Well, the Board could accept it, I think, under its rules and regulations just as the Board did with its rule with reference to what we call the R. E. cases, the employer cases under the Wagner Act when the Board permitted the employer to file petitions when there were two labor organizations concurrently claiming to represent the same unit of employees.

Then the Board said the employer, being caught in the middle, may file a petition. There were very few of those petitions filed because that was not a common situation.

Senator TAFT. This bill eliminates the anti-Communist affidavit. What is your opinion of that?

Mr. DENHAM. I think it would really be a loss to the Nation to eliminate the anti-Communist affidavit. I think it has been a tremendous contribution.

Senator TAFT. Do you think it has succeeded in eliminating Communist officers from unions?

Mr. DENHAM. There is no question but that it has made most labor organizations Communist conscious, and it has certainly given them an incentive to clean out from positions of importance among their officers those who represent Communist influence. I would hate like the mischief to see it taken out.

Senator TAFT. Do you think it has weakened the so-called Communist-dominated unions? Have you instances of loss of membership?

Mr. DENHAM. There is no question but that it has resulted in inroads being made on many of the Communist-dominated unions where there were competing unions that could supply the same service to the members.

Senator TAFT. It has been said that Communists will take a false oath. What has been your experience in that respect?

Mr. DENHAM. Well, all I can say there is that I don't imagine we have had more than half a dozen, if that many, instances called to our attention in which it was claimed that John Doe or Joe Doakes or whoever he may be who has filed an affidavit is in fact a Communist and has taken a false oath.

We have had very few of those instances brought to our attention. Whether they are true or not we do not know. We make no effort to police them.

Senator TAFT. That would be the job of the Attorney General, would it not?

Mr. DENHAM. Such matters are referred to the Attorney General and what happens then is the business of the Attorney General.

Senator TAFT. In your opinion, is a man who is generally considered a Communist rather deterred from filing a false affidavit by reason of the fear that he may be convicted of perjury?

Mr. DENHAM. I am afraid if I had an opinion on that, it would be a prejudiced one. I don't know. I have a very clear definite opinion, yes, sir, but I am afraid it is the opinion of prejudice.

Senator TAFT. Most of the men who are reputed to be Communist officers of unions have refused to file the affidavit, haven't they?

Mr. DENHAM. I know of no avowed Communists who have attempted to file affidavits.

Senator TAFT. My question goes further than that, because a lot of these people are not avowed Communists. I find most labor men think a fellow either is or is not a Communist. Most of them have refused to file?

Mr. DENHAM. Most of them have. There are some affidavits on file made by men who do carry that reputation, but not very many that I recall. After all, with the thousands of affidavits, I never see them unless they come directly to my attention.

Senator TAFT. Do you think if this were repealed at this time, it would be an encouragement to the men who are Communists, who are trying to dominate labor unions?

MR. DENHAM. I think it would be an encouragement to them, and I think it would be a terrific discouragement to the labor leaders who are really trying to clean out their organizations, men like Jim Carey and folks like that.

SENATOR TAFT. Do you think this affidavit provision has helped them eliminate Communists from their own unions?

MR. DENHAM. Yes, sir. There are some unions where they say it has made it hard to function and hard to do a house-cleaning job, but I think that to eliminate it now would really be a considerable discouragement to a lot of labor statesmen and labor has some mighty grand statesmen.

SENATOR MORSE. Will the Senator permit a question on that point?

SENATOR TAFT. Surely.

SENATOR MORSE. You mentioned Jim Carey. Does Jim Carey favor the continuation of the Communist affidavit?

MR. DENHAM. I don't think he has ever expressed himself definitely on that, Senator. Jim and I have discussed this thing a number of times about the manner in which it applies, but I don't think, I have no recollection of Jim ever having said we ought to abandon it or indicating that we ought to abandon it.

SENATOR MORSE. Has Mr. Murray, the president of the CIO signed one?

MR. DENHAM. Mr. Murray has not signed one; Mr. Hayward has not; Mr. Carey has not. Their refusal is based entirely on matters of principle, so they say, and I believe them.

SENATOR MORSE. Do you think I would be wrong in my inference, then, that a refusal to sign one would seem to indicate they don't believe it ought to be required?

MR. DENHAM. Well, they don't like it on the whole, but I have not heard a suggestion from Carey, who is the only one of the three I have talked with about that, that it should be eliminated. That may be his opinion; I don't know.

SENATOR TAFT. Mr. Denham, you are familiar with some of these changes in procedure, for instance, the statute of limitations on stale charges. Do you think there should be such a statute?

MR. DENHAM. Very definitely.

SENATOR TAFT. Do you think the 6-month limitation is a proper period, or should it be longer?

MR. DENHAM. In view of the length of time that it takes to process cases before the Board now, I am inclined to think 6 months is not too short a time or too long a time. There has been, Senator, some considerable question about an application of that statute of limitation, whether it is 6 months, 8 months, a year, or what not, as to what it really means. It has been my feeling that the 6-month statute is put in there as a statute of limitations to protect the employer from going on his way after things have happened and then being confronted 6, 8, 10, 12 months, a year, 2 years later with a claim of an unfair labor practice, which has passed completely out of his recollection and his records are gone and the people are gone.

SENATOR TAFT. And perhaps in time it might be just as uncomfortable for a labor union, I suppose.

MR. DENHAM. Yes; it would be just as bad for a labor organization.

Senator TAFT. You see no reason to eliminate that from the present act?

Mr. DENHAM. I think a statute of limitations is very desirable. We frequently ran into the subject of laches under the Wagner Act. The defense of laches was pretty generally brushed aside. There is no such thing in the Government administrative agency.

Senator TAFT. You don't mean there isn't such a thing. You mean they don't recognize there is such a thing.

Mr. DENHAM. I accept the correction; yes, sir. I have seen some occasions when it seemed to me it was pretty tough on the other fellow.

Now, then, there is a practice in the agency which I think should be observed if that statute of limitations should or any statute of limitations is to be preserved, and that is very frequently a charge will be filed.

Now let us assume it is filed just within the 6 months' limitation. It may be a charge of an unfair discrimination against two or three people. The case goes to the Board's investigators, they go out and run it down and develop it, and in the course of their investigation they find other things which if they are within the period, will constitute what appear to be unfair labor practices.

But if you want to amend your charge and include them in there, you would find yourself charging something that took place a year or a year and a half ago because of the lag of time in the investigation. I think that is something that should be clarified as to whether it is intended that the filing of a charge puts into motion the machinery of the Board and validates any unfair labor practice that might be dug up in the course of the investigation to be covered by subsequent amended charges, even though it may refer to something that took place more than 6 months previous to the filing of the amended charge.

Senator TAFT. You are familiar with the provision regarding the taking of testimony, taking evidence, as far as practicable in accordance with the rules of the district courts? Do you think that this is an improvement over prior practice?

Mr. DENHAM. I may say, Senator, that my experience with the trial examiners was that in the main, even under the prior provision of the Wagner Act they attempted, as far as they could, to adhere to the rules of evidence as they are followed in the various courts.

Senator TAFT. We had lots of testimony in 1939 to the effect that they did not do so.

Mr. DENHAM. In the early days, I am sort of drawing the line around about 1940 or 1941 and taking the last 6 or 7 years of the history of the Board and the act. I think there is no damage done in putting this in there, and it does give a guide line which the men may follow, and it discourages them from saying, "Oh, well, I am not compelled to follow that rule anyway."

Senator TAFT. The Wagner Act looked in the other direction and specifically provided that the rules of evidence should not apply.

Mr. DENHAM. That was almost it. "The rules of evidence should not be controlling" was the language.

Senator TAFT. While the Board may reach the same conclusion under both, this looks toward the normal rules of evidence, and the Wagner Act, if we return to it, looks toward the elimination of the rules and evidence.

Mr. DENHAM. Certainly, I feel all the hearings which the Board holds in these unfair labor practice cases should conform as nearly as possible to the litigation that we are used to in our courts. I have heard some testimony here about becoming legalistic, but after all, these are litigations and they are litigations that involve human rights, and it takes a lot of delving into them and a lot of understanding to get to the bottom of the thing.

I think your testimony certainly should be governed by well-known or well-defined rules of evidence, as far as is practicable.

Senator TAFT. You think there is no reason to eliminate the provision of the Taft-Hartley law to that effect?

Mr. DENHAM. None at all. I think it is an excellent provision and it affords a good guide line for the conduct of the hearing.

Senator DONNELL. Will the Senator permit me to introduce just one sentence from the Wagner Act?

Senator TAFT. Yes.

Senator DONNELL. In section 10 (b) is this wording in the Wagner Act:

In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

And then, if I might put the new sentence in which appears in the Taft-Hartley Act, it reads:

Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States adopted by the Supreme Court of the United States pursuant to the act of June 19, 1934—

giving the citation.

Mr. DENHAM. I may say, Senator, in my own experience I found it absolutely necessary to depart from the rules of evidence in order to make a record.

Senator TAFT. The Taft-Hartley law permits that.

Mr. DENHAM. This "as far as practicable" permits that, but I don't think it is intended that the departure should be the rule. It should be the exception.

Senator HUMPHREY. Senator, is it not true that although he says that the rules of evidence prevailing in the courts shall not be controlling, that is what they have done; is that not right?

Mr. DENHAM. That is right.

Senator HUMPHREY. In other words, to get evidence, in order to get a record, you do not use the rules of evidence. You cannot, and get a record.

Mr. DENHAM. Sometimes the rules of evidence, strictly applied, Senator Humphrey, will exclude very material and valuable and pertinent evidence that the board is entitled to have before it.

Senator HUMPHREY. So, actually, it is not controlling even in the Taft-Hartley Act.

Mr. DENHAM. Any procedure under the Taft-Hartley Act, would be little different from what it was in conducting a hearing under the Wagner Act.

Senator TAFT. You are wrong. But history showed a good many examiners did it during the early days.

Mr. DENHAM. I will agree with you.

Senator HUMPHREY. Didn't history show in the latter days that there was a procedure being developed that adhered somewhat to the rules of evidence?

Mr. DENHAM. That depended entirely upon the individual examiner.

Senator HUMPHREY. Does it not still depend a little bit upon the individual examiner?

Mr. DENHAM. It still does.

Senator HUMPHREY. I mean a very much similar pattern—

Mr. DENHAM. But the general pattern is they desire to adhere as nearly as possible to the recognized rules of evidence, and it has been for some time.

Senator HUMPHREY. And the general pattern of 1938, 1939—after 1939 in the NLRB, was to approximate the rules of evidence; isn't that true?

Mr. DENHAM. Well, it began to grow up.

Senator HUMPHREY. Yes.

Mr. DENHAM. There were some examiners who did not pay very much attention to anything in the way of evidence.

Senator HUMPHREY. In the early days.

Mr. DENHAM. But they disappeared pretty much; and the pattern has grown up. These men were not experienced jurists, and many of them were not particularly experienced lawyers, and some of them were not lawyers at all.

Senator HUMPHREY. A typical American pattern, sort of getting used to something, would you not say?

Mr. DENHAM. They had to get used to it.

Senator HUMPHREY. I just wanted to make a correction here in the record, because the Senator from Ohio has said that, if my interpretation of his remarks is correct, under the Wagner Act provisions there was a tendency to get away from the rules of evidence; and under the Taft-Hartley Act, to comply with the rules of evidence—I mean, to move toward the rules of evidence.

Mr. DENHAM. Of course, as I understood Senator Taft's remark, the language of the Wagner Act tended to point in one direction and the language in the Taft-Hartley Act tended to point in the other direction.

Senator TAFT. That is exactly what I said.

Senator HUMPHREY. I do not believe that is exactly what you said about the language.

Mr. DENHAM. Well, that was my idea.

Senator TAFT. I have only two or three more questions. Do you have any general views on the question of strikes by Government employees and the prohibition of those strikes?

Have you had any occasion at all to deal with that?

Mr. DENHAM. No, but I have very strong feelings on the subject.

Senator TAFT. What is your feeling?

Mr. DENHAM. I think it is the last thing in the world to be permitted.

Senator TAFT. You think no strikes should be permitted, so that you would not be in favor of eliminating from the Taft-Hartley Act the prohibition against strikes by Government employees?

Mr. DENHAM. None at all.

Senator MORSE. Would you permit a question on that, Senator Taft?

Senator TAFT. Surely.



Senator MORSE. Do you think, Mr. Denham, that Government employees would have a right, in the absence of a prohibition in the Taft-Hartley law?

Mr. DENHAM. I do not think so. I have taken the position in connection with my own employees along those lines.

Senator MORSE. Therefore, if you are correct in that observation, then the prohibition in the Taft-Hartley law, in fact, is not necessary.

Mr. DENHAM. Well, if I should be wrong, the prohibition in the Taft-Hartley Act acts as an excellent stopper, an anchor to windward.

Senator TAFT. What would you do about it if they struck, if there was not any Taft-Hartley Act?

Mr. DENHAM. I do not want to be facetious, but I would get my personnel department busy making out these numerous forms that represent terminations of services.

Senator TAFT. Don't you think the Civil Service Commission is very likely to restore them to office except for this provision that they cannot be restored for 3 years?

Mr. DENHAM. I am not sufficiently familiar with the details of the Civil Service Commission, but certainly I cannot see an inherent right of Government employees, a group of Government employees, concerted, to strike and expect to retain their positions as Government employees. They have taken certain oaths, and I think they have got to adhere to them.

Senator MORSE. May I ask another question on this point? I think it would save time in the long run. Going back to your observation, Mr. Denham, as to what the situation might be if you were wrong, of course, we are talking about the problem as to what a basic right is. You and I are in agreement, I think, that as a matter of right they cannot strike against the Government.

Now, if you and I should be wrong about that, and the courts should hold that such a right, in fact, exists, which you and I do not believe is the case, the legislative problem which would confront this committee would be quite different, it seems to me, as to whether we then want to pass a statute taking away a right which we did not think in fact existed, but which we found in fact, after a court decision, did exist.

Mr. DENHAM. I do not know of any court decisions that indicate that such a right exists, and I would rather let the court decide that the legislation is wrong than to go forward on my own judgment and eliminate—

Senator MORSE. But there are court decisions that do indicate that the right, in fact, does not exist; and that being what I think is the clearly established law, the only point I am making is that it, in fact, is surplusage in the Taft-Hartley law.

Mr. DENHAM. Well, that conceivably might be, Senator. There is a lot of surplusage in a lot of laws.

Senator MORSE. I always try to get rid of it if I can.

Senator TAFT. May I ask how far do you think this does go? Do you think it is illegal for city employees to strike, State employees to strike? What is this law about not prohibiting strikes, that they have a right? Surely there is nothing that makes it criminal or anything like that for them to strike?

Mr. DENHAM. Having never had anything to do with the city employees or State employees, I am going to ask to be excused from answering that because I do not know the answer and I do not think I am entitled to an opinion on it.

Senator TAFT. I do not understand a theory that we do not find any laws about their right to strike being written in the books, and it is far beyond my scope, but it seems to me that I see nothing illegal to prevent people from striking, and possibly coming back afterward and getting all their jobs back.

Mr. DENHAM. Well, we have had school teachers strike. I know, I have read of some of these.

Senator TAFT. I guess they were all taken back without penalty, without losing pay for the days that they were on strike.

Mr. DENHAM. It may be that there is a different feature with reference to them than with reference to the rest of us, but I have been looking only at the Government end of this thing, the Federal end of it.

Senator DONNELL. Would the Senator permit me to ask the Senator from Oregon a question? Does the Senator from Oregon know of any authority to the effect that it shall be unlawful for an individual employed by a wholly owned Government corporation to participate in a strike?

Senator MORSE. I will bring that out now, although I had intended to bring it out in questioning. I think that if you go into the cases you will find that you have got the theory that applies to an employee who is striking against a governmental function and the theory that applies to an employee who is striking against a proprietary activity of the Government. That is quite a different thing.

Senator DONNELL. I might point out in the record at this moment that the Taft-Hartley Act, in section 305, makes it unlawful for an individual employed by the United States, or any agency thereof, including wholly owned Government corporations, to participate in any strike, and that the Taft-Hartley Act in that respect, as I understand it, does not differentiate between corporations that are performing governmental functions and those that are performing proprietary functions.

Senator MORSE. I would point out to the Senator from Missouri that we are dealing with entirely different activities of Government, and if we are going to go into an era now where the Government is going to compete with private industry, for example, in a great many economic activities, I would want to reserve judgment as to what the collective-bargaining rights of workers are, in what amounts, after all, to an economic plant of the Government.

Senator DONNELL. Yes; I think that question is worthy of exploration—should be explored.

Senator TAFT. That is all, Mr. Denham. I thank you very much for your answers to the questions.

The CHAIRMAN. Are there any other questions of Mr. Denham?

Senator SMITH. Mr. Chairman, I have a few. I regret, Mr. Denham, that I was not here this morning when you began your testimony, as I had a Foreign Relations Committee meeting to hear the report on ECA.

I want to make a slightly different approach to this problem than some of these questions have indicated. It is based on this kind of testimony that we received from some of our witnesses.

A statement was made by some that the relationship between management and labor is not an ordinary contractual relationship. It is more the relation of—some have made an analogy to marriage. People have to work together and people have to live together, and, therefore, we have ourselves rather involved in legal technicalities in both the Wagner Act and the Taft-Hartley Act.

I have been groping for some formula to see if we cannot create more friendly relations between management and labor, more partnership relations, and get away from the constant antagonisms that seem to be involved in the whole strike process.

Now, I am wondering whether, from the vast experience that you have had in dealing with these many cases, you think we have had a tendency to become too complicated in a lot of rules. Some witnesses have said it takes a barrel of Philadelphia lawyers to interpret them. It has given business to lawyers; or do you think that we have a minimum of regulations to protect the parties on both sides adequately in their dealings across the bargaining table?

MR. DENHAM. Senator, I heard Mr. Teller's testimony, Saturday I think it was, and I think he made one observation that is so obvious when you look at it that it really does not call for comment. That is, that the regulations whether they are labor-relations regulations or SEC regulations, or what not—Federal Trade regulations, are in the last analysis applicable only to the fringe group. He stated that the great mass of people coming within the area that would be affected by those regulations do those things anyway, because most of these regulations are just the rules of decent conduct.

As I look at the regulations that are contained in the act, at the time they were passed, they were needed, needed badly, because labor was being exploited by selfish industrial people.

There were a lot of industrialists who were doing a swell job with their labor, and there was no problem there.

Then, as things went on, labor needed protection. Labor now has grown up; labor does not need protection. Labor is now a fundamental part of our economic structure, and it represents a right good slice out of the pie.

But my contacts with labor organizations, with labor statesmen—and I have used that term once before tonight—labor leaders and industrial leaders indicate to me that they do not need, most of them do not need, any regulations. They have done a right good job of getting along by themselves.

Senator SMITH. I have met a good many who have felt that to be just the right approach to the thing, and a lot of industrial leaders who just do not need any regulation at all.

MR. DENHAM. That is right.

Senator SMITH. Then, you are talking about the smaller percentage that we always find in any society?

MR. DENHAM. That is right.

Senator SMITH. The people who do not behave, and we have got to take care of them.

Then you are an optimist in the whole picture?

MR. DENHAM. No; I do not know that I am an optimist. I try to be a realist, because I know that there is a substantial layer both of industry and labor organizations that have not yet learned that there is a mutuality of interest between industry-management on the one hand and labor on the other.

They have not learned how to respect each other, how to understand each other, how to get along; and one of the reasons—I think it was Professor Vertress up at this university in northern New Jersey who observed, and I wish I had his quotation, because it was so aptly put—one of the great problems, one of the great menaces that we have in our industrial-relations picture today is not the greed of management or the greed of labor, but it is the many things about each other that they do not understand, and that is the reason that our contracts are so complicated.

If they could just understand each other they would get along better.

That sounds like a sort of Pollyanna approach, but I have seen lots of labor organizations which understood what was going on, and they do a good job. I have seen lots of employers who understand what is going on among their employees, and they do a good job.

SENATOR SMITH. Now, we have in New Jersey, in our textile plants, experiments being made along this line, namely, taking the workers into counsel with management on questions of policy and other matters, so that they can become thoroughly acquainted with that whole approach. In fact, it is a school, you might say, of interrelationship, so that the representatives of management who have supervisory positions will understand the workingman's problem and the workingman will understand the problems of finance that businessmen have, and so forth.

MR. DENHAM. And such a program should lead to excellent results.

SENATOR SMITH. And I have always thought we ought to be thinking in terms of high lighting more the areas in which we can bring them together to understanding than high lighting so much what I call the rules of warfare where we say, "Let's equalize the brass knuckles here and let the best man win with a show of might."

MR. DENHAM. Senator, it has been my observation, for what it may be worth, that there is a segment of leaders, and mostly the subleaders, the little fellows, the ones who hit the grassroots, who seem to feel that their greatest way of really making progress with the employees whom they are seeking to organize or who are already in their organization, is to impress upon them that there is a great huge unbridgeable chasm between the employer on the one hand and the worker on the other; that they are just by nature in a state of warfare, and that is perpetuated.

I also find that as time has gone on and as the understanding has become a little bit better, they have gotten a little closer to understanding, that chasm becomes less wide, and sometimes they get really across.

On the other hand, I find many, many employers who just abhor the thought of labor organizations in their plants, and the two approaches are approaches of antagonism, and that is what makes for our trouble.

We have got to recognize it, and because it is there, and both sides have it, it is my thought that a regulation of some sort to keep each from damaging the other fellow is essential.

Senator SMITH. All right.

Mr. DENHAM. And I think the Taft-Hartley Act has done a right good job of providing that procedure.

Senator SMITH. That is what I was about to ask you next, whether you think that it has been overdone, whether you think it has made us too legalistic, whether you think there are too many rules and there is too much danger of litigation.

Mr. DENHAM. I do not think it has made us too legalistic, and I do not think it has resulted in too much litigation.

Senator SMITH. I know, as far as our committee is concerned, that 2 years ago, in studying this thing, our approach was to see if we could not bring about more friendly relations by trying to point out the evils on both sides and getting reasonable rules of the game. It had to be a game of production and partnership rather than a game of continual warfare and continual strife, and I am interested in what you have just said, because it has seemed to me for some time—and I have tried to discuss this with my labor-leader friends—a question of an incentive plan, profit-sharing plans, elements that make for the interest of the worker in his job so that he enjoys it and does not think constantly that he has to be trying to get more and more pay for less and less work, but really taking a pride in his production, in quality and quantity, as part of the enterprise and not antagonistic toward the enterprise he is in.

But I have felt that sometimes they tell these fellows: "Do not talk along that line, because, after all, every advance you make must be bargained for. We must have the next step to take the next year; we cannot be given too much this year; we must have another step to take next year"—to keep it in that constant stage of a creation of accomplishment by the union in order to make a showing. Am I wrong in thinking that is a tendency?

Senator DOUGLAS. Will the Senator permit me to make a congratulatory statement with respect to him?

Senator SMITH. What is that?

Senator DOUGLAS. Would you permit me to congratulate you?

Senator SMITH. It seems to me, anything from my distinguished friend from Illinois is worth hearing.

Senator DOUGLAS. It seems to me you have made the most eloquent presentation for the Truman-Thomas, with the emphasis upon adjusting disputes which arise from an interpretation of a contract and its elimination of jurisdictional disputes, and so forth; so, we welcome you, Senator, very much. We thank you very much for that.

Senator SMITH. I have no objection to giving credit anywhere if we can find the right kind of legislation to make a statesmanlike approach to this and not a political approach, and if the Thomas bill has those qualities, I am ready to admit it and go along with it; and if we have some amendments that we are offering, I hope my distinguished friend from Illinois will go along with us on those, and then we can work together for a result here.

Senator DOUGLAS. For the benefit of the country, I say we have always liked you, Senator Smith, but tonight we like you better than ever.

Senator SMITH. Thank you, very much.

Mr. DENHAM. Along the lines, Senator Smith, that you have mentioned, there is one organization in the United States that is usually

held out as the outstanding example of excellent industrial relations. I am speaking of the Lincoln Electric Co.

Senator SMITH. I thought you were going to say the Lincoln Electric Co.

Mr. DENHAM. Jim Lincoln is a gentleman of the highest order, and he is a man who respects every man on his pay roll; he respects them for what they can do and for what they are. He has no union in his shop. He has a higher rate of production than anybody else. He pays higher wages than anybody else in the same field. He sells his product at a lower cost than any one of his competitors.

Senator SMITH. And he pays reasonable dividends on his investment.

Mr. DENHAM. He pays reasonable dividends and has an incentive plan as well.

Senator SMITH. I have made quite a study of that program.

Mr. DENHAM. Jim Lincoln does quite a lot of other things that go to the advancement of good labor relations. I do not want to give a lecture on good labor relations, because I do not think I am good enough an expert on it, but Jim Lincoln has done a good job, and there is an ideal that we can reach, in spite of the fact that Jim has no union.

Senator HUMPHREY. Do you think, Mr. Denham, that that is fully desirable?

I am really looking for some information. I know of plants at home in our own home State along those lines, where there is a very benevolent employer who has really made it a life's work to develop excellent labor-management relationships.

Senator SMITH. Is that the Hormel Co.?

Senator HUMPHREY. Yes.

Mr. DENHAM. Hormel has a very excellent plan. They have got the annual wage.

Senator HUMPHREY. However, it seems to be the opinion of management there, and of course the workers—I know it is of management—that a union is a good protection for a continuing policy.

What I am really driving at is this: That there are times that you run into—not only few times but many times—as you well pointed out—when men in industry had a real understanding of the labor-management problems and the needs of the men in their plants.

However, on the continuing basis, particularly where you have corporate structure, where there is the change of management, and where there may be a change in the board of directors, for example, and likewise a change of policy coming with some alteration in the board, don't you think that the well-organized, well-established union is a protection to the continuation of that same policy?

Mr. DENHAM. Oh, definitely. I used the Lincoln example—

Senator HUMPHREY. Yes.

Mr. DENHAM. Not because he does not have a union, but because his relations represent an ideal set of relations. How they were acquired, whether by bargaining or what not, is not taken into consideration.

I thoroughly agree with you, Senator, that for a good, well-organized understanding union to make its operations fit into the operations of management with neither one trying to take advantage of

the other, is an excellent arrangement and a highly desirable thing and is the thing that unions should stand for.

Senator SMITH. Mr. Denham, do you agree with me that that is not a situation upon which we can very well legislate? You cannot legislate happy human relations.

Mr. DENHAM. No, sir; you cannot do it.

Senator SMITH. And I am trying to see the minimum amount of legislation we need in order to correct abuses that are obvious and yet, beyond that, also discover to what extent we can leave the people free to work out their own salvation on the basis of interchange of human beings, who have to live together and want to live together and work together in partnership rather than in antagonism.

Mr. DENHAM. Just as I said, Senator, the great mass of them will succeed in doing it if given half a chance, and they have so demonstrated.

Senator SMITH. That is what I thought.

Mr. DENHAM. But there is a periphery there of people who just do not accommodate themselves to that kind of idea.

Senator SMITH. That is true.

Mr. DENHAM. And selfishness.

Senator SMITH. But you would not agree, Mr. Denham, in your trying to do that sincerely that it does not do the cause any good to call it a vicious labor act, vicious labor legislation, calling it anti-labor, calling it slave labor, if we try to pass a statute like the Taft-Hartley Act. Don't you think that we ought to try to restrain ourselves from using those extravagant terms and creating enmity and class feeling, when the whole objective of what we are trying to do here in the Congress is to bring the parties together?

Mr. DENHAM. That should be the objective, Senator, and I can see no excuse for going out on a limb.

Now, I can recall very well when the Securities and Exchange Act was passed. I was then living in New York City, and I happened to belong to one of the clubs up there where there were some of the old gentlemen who sat in the window and looked out, and you would go up there and they were just tearing their hair and cussing and damning the Securities and Exchange Commission and the world was going to hell; that was where you got your viciousness and all that kind of stuff.

That continued for a year, a year and a half, maybe 2 years, and by that time these people who were businessmen and who came in contact with the Securities and Exchange operations began to recognize that the regulations were sound, that they were not hurting the good houses, that they were restraining the fakers and the blue-sky boys, and I had some very close relations subsequently with some of the Wall Street brokerage houses and with some of the bond houses, and although there was a lot of what they thought were needless forms and red tape they would not give up the Securities and Exchange regulations for anything now.

Senator SMITH. Well, I can say to you that I have had lots of complaints—

Senator TAFT. I think you overstate the case.

Senator MURRAY. I think so, too. I think he overstates the case because I recall that we had a special committee here investigating

that problem back in 1938, and the head of the Chase National Bank appeared here at that time and criticized it severely and charged it as being one of the causes of the recession, and I asked him what was wrong with it, and he said that it interfered too much with the regulations on the stock exchange. I said to him, "Don't you think it was necessary and proper for the Government to prevent the robbing and looting and cheating of the American people of billions of dollars in this country which was going on for a period there in the stock exchange?" And he finally admitted that, of course, that had to be done. But he was claiming, however, that as a result of that act and of several other acts that were enacted by the Roosevelt administration it had created a fog of fear and uncertainty in the minds of American business as a result of which they were withholding their investments in this country. That is testimony which is on record.

Mr. DENHAM. That was undoubtedly his opinion expressed there.

In 1937 I was a manager of one of the stock-exchange houses, and I came in pretty intimate contact with the day-to-day operations of the Securities and Exchange Commission, and I know that our house thought very highly of it, and I heard none of those with whom I came in contact outside, either here or in New York, who had any very serious criticism to make of it.

Senator SMITH. I know that Mr. Martin in his jurisdiction there was very popular with all the houses I know of in New York, and able to handle that.

I have one more question, and I will stop. I want to ask you this. Mr. Denham: This provision in the Wagner Act, allowing the closed shop, and in the Taft-Hartley Act permitting a so-called union shop, those are both set-ups where the workers in a given plant must belong to a union.

Now, my question to you is whether you think we have provided adequately, in this legislation, to protect the ordinary worker who, because of the union set-up, is compelled to either join the closed shop or in the other case the union shop. Have we adequately protected him so that in the question of initiation fees, dues, assessments, welfare funds, whatever it may be, he has an adequate say in its control?

Mr. DENHAM. You mean in the Taft-Hartley Act or in the——

Senator SMITH. Well, I mean under either.

Mr. DENHAM. Taking that into consideration.

Senator SMITH. We go back to the closed shop which the advocates of repeal of the Taft-Hartley Act wanted to do. How can we protect that man against what may be the abuses of big labor just as we have been against exploitation by big business? How can he be protected from being exploited by big labor?

Mr. DENHAM. Senator, the closed shop or the union shop or the one which gives the union security is a tradition in union circles and has been for a long time.

Senator SMITH. I can see the argument for it very well. I think they do not want to carry people without their paying their fair share.

Mr. DENHAM. I have indicated in my speeches during the past year and a half, not directly, but by inference, that I was not entirely happy over the provisions for the union shop as they are set out in the Taft-Hartley Act.



As they are contained there, they become nothing in the world except a medium for augmenting the treasury of the union, and provide no means whereby the union can have any control over its membership or its affairs.

Consequently, I feel that some change very properly can be made in the provisions of the present act with reference to union security.

I am not an exponent of the closed shop. I definitely am an opponent of the closed union. I believe in the union-shop doctrine which permits the employer freedom to hire whom he wishes to put on his pay roll. I can see no objection to the employees entering into a contract with a labor organization which provides that after a given length of time new employees shall apply for and become members of the union, an obligation on the part of the union to accept them and then require them to maintain their position in good standing as a condition of their employment.

Now, the next question that is posed by your question—the next issue that is posed by your question, rather, is, How is that man to be protected against exploitation and abuse?

I think that, if the labor organization seeking a union-shop contract is to have such a union-shop contract, it should at the same time be willing to assume full responsibility for the propriety of its conduct toward its members, and that, under the provisions of that union-shop contract or provisions of statute or what have you, every employee who becomes a member should be entitled to be insured that his membership will not be put in bad standing through arbitrary or capricious conduct on the part of the officials of the union.

Senator SMITH. Would you bring that about legislatively, or would you let the union make its own rules?

Mr. DENHAM. Yes; I think it could be brought about and that the union should be in some fashion made responsible for a loss of employment of a man whose discharge they bring about because he has arbitrarily or capriciously been expelled or suspended from the labor organization.

That would be discriminatory, a discriminatory act on the part of the labor organization.

Senator SMITH. Would the NLRB determine that question?

Mr. DENHAM. Well, now, sir; I must confess that I have not attempted to think it through quite that far.

Senator SMITH. That is what troubles me with it. How far would we have to go with regulating the unions by law with machinery to protect the worker?

Mr. DENHAM. You get down there into the internal operation of the labor organization, and that is something that the NLRB has consistently avoided.

Senator SMITH. I know that.

Mr. DENHAM. And which I would like to see avoided.

Now, I get this idea, sir; from a combination of sources, but primarily from a single contract which I saw, oh, some 4 or 5 years ago, drafted by one of the attorneys in New York City who was formerly an attorney for the Board. He provided for a union-shop clause, but any man whose discharge was requested by the union because he was in bad standing was entitled to question the bona fides of his bad standing and entitled to have the good faith or the good cause of his expulsion or suspension arbitrated.

I think the attorney told me that they had had one such case in the year and that it had worked out very satisfactorily.

Now, something of that sort—I give you that just as my thought on how the matter probably can be handled.

Now there are many times when union members really and truly violate the rules and should be expelled, just as men are expelled from lodges and things, but there are also many times when they have been arbitrarily and capriciously suspended.

One man's wife may get into a fight with another man's wife, and, the first thing you know, they are fighting it out in the union.

Senator SMITH. Well, normally in a lodge it would be a matter for the lodge to determine; that is the business of the lodge.

But here you have a case where if you adopt the union shop, or even a closed shop, it is a matter of a man being able to earn his livelihood. If he does not belong to that closed shop or closed union he cannot get his job and he cannot live.

Mr. DENHAM. That is quite true.

Senator SMITH. So, it is sort of a matter of life and death over the individual which is quite different from, as has been argued by some, that it is the same as a voluntary lodge or fraternal order or something else.

I think it is quite different because your livelihood is involved.

Mr. DENHAM. There is a very decided difference in the responsibilities that attach to that action.

Senator SMITH. Yes; I am trying to grope for an answer to what should be done if we continue the union shop, and I think it is inevitable. I believe unionism is sound; I believe in it, and I have supported it. But if the union does have these powers to say whether a man can have a job there ought to be something to protect him against abuses and protect him in the American right to earn a livelihood. I think you agree with that, and I think we ought to find a formula to try to protect him.

We tried to do that with some of these simple provisions in the Taft-Hartley Act, which will now be repealed if the act is to be repealed.

Mr. DENHAM. I think there should be a limitation on the union shop of that sort, and there is, incidentally, another limitation that I would certainly put on a union-shop provision.

If you are going to retain the non-Communist-affidavit provision and permit union shops, I certainly would invalidate union-shop contracts made by labor organizations that are not in compliance with the filing requirements of law.

I think that is sound, and is found in a memorandum or, rather, in a suggested amendment which I offered to the joint committee last June.

Senator DOUGLAS. Will the Senator from New Jersey yield for a minute?

Senator SMITH. Yes; I will be glad to yield.

Senator DOUGLAS. You speak of the necessity of regulating the internal union's machinery.

Mr. DENHAM. Pardon me, I said that would not be regulating them.

Senator DOUGLAS. I thought you approved of those features of the Taft-Hartley law which restrict initiation fees and so forth. I thought you were approving it.

Mr. DENHAM. Well now, you are getting off, I think, the subject. We are talking about the closed shop, and the arbitrary discharge of the men.

Senator DOUGLAS. Senator Smith was then asking you a question, and he said if you accept the closed shop, then shouldn't you take steps to regulate the union, because then——

Senator SMITH. That is the question I am presenting. I am presenting that question. It seems to me that you have got to provide for an open union if you are going to provide for a closed shop.

Senator DOUGLAS. I want to ask a question, in following that up: Should we provide for the regulation of the internal machinery in voluntary trade associations and farm associations, prescribing a sort of regulation with respect to the duties of the members themselves? This is not unique; a trade union is one amongst many voluntary associations, and yet you propose to single it out for exclusive regulation, or do you?

Mr. DENHAM. No; I think there you are in another field when you are talking about trade associations and farm bureaus and things of that sort. You are talking here about the relations of individuals to their employers and their employment as expressed through the medium of a labor organization to which they belong, and then superimpose on that a condition that if they do not conform to the rules and regulations of that labor organization they may be suspended and lose their jobs, and then there are certain cases, all of us know, that have happened, where men have been arbitrarily and capriciously suspended, and the employer notified under a closed-shop agreement, and the men are fired from the job.

Senator DOUGLAS. We have a milk-producers association outside of Chicago, and membership in that association is virtually essential to getting the milk into Chicago. If you are suspended from that association, in general you do not get the milk in.

Now, would you say that the Federal Government should by statute regulate the relations between individual members and this marketing cooperative? I am trying to see just how far you carry these principles.

Mr. DENHAM. No; I would not carry them that far. I do not think that is a national question in the first place.

Senator DOUGLAS. Well; the milk is a very important question; supplying milk is a very important question.

Mr. DENHAM. I know, but Chicago is only one small part.

Senator DOUGLAS. Well, what is true of Chicago, isn't it true in large part with other cities?

Mr. DENHAM. We have got an association out here in Maryland, too.

Senator HUMPHREY. I would like to offer a comparable example: How about the American Medical Association? Do you think we should have regulation of the American Medical Association by Federal law?

Mr. DENHAM. I understand that there are some proposals of that going to be offered.

Senator HUMPHREY. There are no proposals whatever to regulate the internal operations of the American Medical Association. I would be the last man in the world to try to tell a doctor how to regulate his life in such an organization as the AMA.

Senator SMITH. It does not mean their earning a livelihood. I know lots of doctors not belonging to the AMA. They do not have to belong to that to practice their professions. They have to pass their examinations to qualify.

Senator HUMPHREY. Don't they have to belong to the AMA to get into hospitals?

Mr. DENHAM. There have been a lot of battles, and I have in mind some of those.

Senator HUMPHREY. Not very successful.

Mr. DENHAM. Extremely successful in recent years. There are some of these clinics for prepaid medicine. We have got our group health down here.

Senator HUMPHREY. Are you saying those men are not in the AMA?

Mr. DENHAM. Some of them have been kicked out of AMA. Down in Little Rock, Ark., every man in the outfit who started that down there was kicked out of the AMA.

Senator HUMPHREY. Do you think we ought to pass a Federal law on that, then?

Mr. DENHAM. No.

Senator HUMPHREY. That is just my point.

Mr. DENHAM. They fight their own battles.

Senator HUMPHREY. Don't you think it is a good idea to let the printers fight their own battle in their organization, printers, typographical workers?

Mr. DENHAM. No; I do not think so. I do not think there is any analogy between them.

Senator HUMPHREY. None?

Mr. DENHAM. No.

Senator HUMPHREY. It is a skill, is it not?

Mr. DENHAM. Not a particle of analogy between the medical association and the trade-union.

Senator HUMPHREY. None at all? You do not think that the skill of a typographical worker is unique to himself just as the medical man?

Mr. DENHAM. Now, you are getting out into another field.

Senator HUMPHREY. No; I am not. We are talking about—

Mr. DENHAM. Of course, you are skilled. You are skilled in your trade, whatever it may be, and I am in mine.

Senator HUMPHREY. I am not arguing that, Mr. Denham. I am just saying, to follow up Senator Douglas' comment, you wanted a comparable situation, and I would agree, for example, that if, for example, you took a cooperative and a trade organization there might be some difference about what we are talking about, and a closed union, but I submit that the medical association has a code of ethics and has a set of standards, and if you do not live up to those standards and if you do not meet certain performance qualifications you have a very difficult time practicing, and I am all for that.

Mr. DENHAM. Well, the same thing happens to lawyers.

Senator HUMPHREY. I think that is wonderful that they have those professional standards. I think it would be a bad society if they did

not have those professional standards because of the uniqueness of their skill.

Mr. DENHAM. The same thing applies to attorneys.

Senator HUMPHREY. May I just say this: I do not want to get into more trouble with respect to the attorneys. I had a letter from the president of our bar association, Senator Smith and Senator Morse, saying I should not have said what I said about lawyers, and I am here to say publicly that I love them.

Senator MORSE. I will be your counsel. [Laughter.]

Senator SMITH. Thank you, Mr. Denham. I wanted to have you just bring out that point of view to see if we could explore that a little bit in the area of management and labor relations rather than putting the laws of warfare in the limelight. I think with you that you have got to have certain regulations as to a minimum of conduct if we are to hope to have people get together amicably.

Mr. DENHAM. There must be, Senator.

Senator SMITH. I agree with you on that.

Mr. DENHAM. There must be the club behind the door. We do not have to use it, but if we did not have laws against assault and arson, and things of that sort, we might have more persons assaulted and we might have more houses burned down by people who have no regard for the rights of other people.

It is the presence of these restraining laws, these regulations—and criminal law is a regulation—it is a regulatory provision of conduct—that tend to keep our society an orderly one, but it does not apply to many people, those to whom the criminal laws are brought in application. They are just an infinitesimal percentage of the people who would be subject to them if they did those things, but they just do not do them.

Senator PEPPER. Mr. Chairman, has the Senator finished?

Senator SMITH. Yes; I have finished.

Senator PEPPER. Mr. Denham, how long now have you been on the stand as a witness in this matter?

Mr. DENHAM. I came on the stand this evening at 7:30. I was on this morning from 9:30 until 12.

Senator PEPPER. You were on from 9:30 until 12, 2½ hours this morning. Then you went on at 7:30 this evening and it is now, I believe, 9:15.

Mr. DENHAM. Right.

Senator PEPPER. And then you gave your preliminary statements, I believe also, yesterday morning.

Mr. DENHAM. That took 5 minutes or so yesterday morning.

Senator PEPPER. Mr. Denham, I do not ask this question to suggest it is in any sense of the word appropriate for you to answer it if you do not want to. What party do you belong to?

Mr. DENHAM. I am sort of a hybrid, Senator. I am a Republican. I have been a Republican all my life, but I may say for your information that some 10 years or so ago when there was an effort being made to purge one Millard Tydings, I had just recently moved to Chevy Chase, Md., and I liked Millard Tydings; I registered in the Democratic Party so that I could vote for him.

Senator PEPPER. And since that time you have changed your—

Mr. DENHAM. I have never changed my registration. I have been registered as a Democrat, but I am still a Republican.

Senator PEPPER. A lot of them are, and they have got some good Republicans who are good Democrats, too.

Mr. DENHAM. Millard, by the way, told me there are probably 150,000 people in Maryland who did that same thing, so I feel that I am in good company.

Senator SMITH. Senator Pepper, might I just interject there to remind you of the definition one of my students in Princeton wrote on an examination paper.

Asked what the definition of a mugwump was, he said a mugwump is a fellow who sits on the fence with his mug on one side and his wump on the other. [Laughter.]

Senator NEELY. Do you mean to imply that is what this witness is doing, Senator?

Senator PEPPER. Well, of course, I was not going to describe on which side of the fence the Republican Party was. [Laughter.]

Senator NEELY. That is self-evident.

Senator TAFT. The trunk of an elephant, the tail of the donkey.

Senator PEPPER. Mr. Denham, I wondered were you in favor of the Taft-Hartley law or in favor of what is essentially the Taft-Hartley law prior to your appointment as the general counsel of the National Labor Relations Board.

Mr. DENHAM. Oh, yes.

Senator PEPPER. You, I believe, consulted, did you not, with some of the Republican members of the committee about this legislation before it was adopted?

Mr. DENHAM. It was one of them only.

Senator PEPPER. Was that Senator Donnell.

Mr. DENHAM. Senator Donnell, yes.

Senator PEPPER. Well, Senator Donnell, with his characteristic candor, referred to that in the hearings at the time of the confirmation of nominees for members of the National Labor Relations Board. Senator Donnell said—

I think the record should show that I have known Mr. Denham for 40 years. He and I were in the university law school, at the same time. Not only that, but he and I boarded at the same house for a time in Columbia, Mo. I have known him for all these years. I want to ask just a few questions of Mr. Denham—

apparently addressing himself to you—

Would you tell us please whether or not you furnished me some few months ago with a memorandum concerning changes which you thought were desirable to be made in the Wagner Act?

Mr. DENHAM. Yes, sir.

I am reading from page 5 of the record.

Yes, sir.

Senator DONNELL. Do you recall whether in the Taft-Hartley Act any of those changes which you suggested are made?

Mr. DENHAM. I was very much gratified to find the major portion of those suggestions incorporated in the Taft-Hartley Act.

That is correct. That was your statement, wasn't it, at the time?

Mr. DENHAM. As I recall, yes, sir.

Senator PEPPER. So prior to the time of your appointment as general counsel for the National Labor Relations Board, you had already been

in contact with some of the Senators who thought that there should be an amendment of the law and you were gratified to observe later, to use your own language, "gratified to find the major portion of those suggestions incorporated in the Taft-Hartley Act."

Mr. DENHAM. May I restate that, Senator?

Senator PEPPER. I am just asking you, Is that a correct statement?

Mr. DENHAM. I was requested to make some suggestions for changes in the Wagner Act, and I supplied those to Senator Donnell at his request.

I was very much gratified to find that many of the suggestions that I made were in substance found in the Taft-Hartley Act when they got through with it.

Senator PEPPER. I believe the language you used here to Senator Donnell and the committee was: "I was very much gratified to find the major portion."

Mr. DENHAM. That probably is true, too.

Senator PEPPER. "The major portion incorporated in the Taft-Hartley law."

Mr. DENHAM. That probably is true.

Senator TAFT. What date did you furnish those to Senator Donnell?

Mr. DENHAM. Senator, I cannot give you—I have got to go back. As I recall it was probably in January or February of 1947.

Senator TAFT. Were you consulted at any time again after that until after the bill became law?

Mr. DENHAM. I do not recall that I was. I may have been, but I do not think so.

Senator PEPPER. Well, at the time that you furnished this memorandum to Senator Donnell, were you at the time employed in Government service?

Mr. DENHAM. Oh, yes, I was trial examiner.

Senator PEPPER. Trial examiner for the National Labor Relations Board?

Mr. DENHAM. Yes, sir.

Senator PEPPER. And you were working under that Board at the time?

Mr. DENHAM. Yes, sir.

Senator PEPPER. So you sent a memorandum to Senator Donnell proposing changes in the act under which you were then working so that it should become, in respect to their major portions, the Taft-Hartley Act of today?

Mr. DENHAM. Senator, I do not like to put it in that form. That is not an exact statement of what happened.

Senator Donnell and I have been close friends for many years. I met him in St. Louis along around about Thanksgiving time, if I recall, of 1946. I was hearing a case there and we discussed the Wagner Act. I have never been entirely sold on the perfection of the Wagner Act, and have said so.

Senator PEPPER. Apparently you were not, if you recommended the Taft-Hartley law.

Mr. DENHAM. When I discussed the imperfections of the thing, it seemed to me there were some things that could be done. Then there were some bills passed. I think the first one was the Ball-Taft-Hatch Act, some three-name bill that came in first.

Senator TAFT. It has been in a lot of combinations, but never that.

Mr. DENHAM. Well, I have forgotten which one it was, Senator; and I studied that and did nothing about it. Then there was another one and I was, incidentally, tremendously busy at the time.

Senator PEPPER. What was that, the Case bill?

Mr. DENHAM. The Ball-Burton-Hatch Act. I think is the one we are talking about.

The CHAIRMAN. There was such a bill.

Mr. DENHAM. And I took that act and laid it up alongside of the Wagner Act and then made my comments on it and put it in the form of a memorandum to Senator Donnell.

Senator PEPPER. Well, did you confer with any of your superiors about the matter?

Mr. DENHAM. No.

Senator PEPPER. Advising them that you were giving that advice to the Congress?

Mr. DENHAM. Yes, I did. Excuse me. I discussed that with Mr. Herzog. I told him that Senator Donnell had asked me for this information and he said—

The Senator is asking for it. There is no reason why in the world you should not give it to him. Give him the comments you have to make. I would suggest that you not publish it, but supply him with whatever information he desires.

Senator PEPPER. Well, did any of the authors of the Taft-Hartley law or any of those interested in its passage, so far as you know, have anything to do with your securing the position of general counsel after its passage?

Mr. DENHAM. I do not think any of them did. I do not know, but I would have no idea that any of them did.

Senator PEPPER. So far as you know neither Senator Taft nor any of the other authors or advocates of this measure recommended your appointment as general counsel because they knew of your belief in the law?

Mr. DENHAM. So far as I know, Senator Pepper, I am told that not a single member of Congress had anything to do with the President's selection of me as the general counsel.

Senator PEPPER. Well, your belief in the Taft-Hartley law then is not traceable exclusively to your experience under it because you submitted a memorandum which essentially became the Taft-Hartley law before you ever became general counsel.

Mr. DENHAM. Well, now, after all, there were many of the suggestions which I made which undoubtedly must have been made by other people involved in advising the committee.

There was a coincidence of thought, quite surely, because many of the suggestions I had to make were suggestions that I have heard other people make.

Senator TAFT. May I ask one question?

You said that you found a majority of your suggestions in the Taft-Hartley law, but you would not say that the majority of the provisions of the Taft-Hartley law were contained in your suggestions, would you?

Mr. DENHAM. No, sir, hardly that. There were a lot of things in the Taft-Hartley Act that were not contained in my suggestions, one



of which was the creation of the Office of General Counsel. That was not suggested by me at all.

Senator PEPPER. Then you evidently changed your mind about that since you testified before the committee.

Mr. DENHAM. Why?

Senator PEPPER. I will read again to you what you testified before the committee when you said—

I was very much gratified to find the major portions of these suggestions incorporated in the Taft-Hartley Act.

Now, Mr. Denham, when you also were before the committee prior to your confirmation, I believe you were asked some questions as to whether or not in the performance of your duties as general counsel you would consult with, consult with the Joint Management-Labor Committee, and you testified about that, about what your policy would be. Do you recall what your testimony was?

Mr. DENHAM. Yes, sir. "I will be very glad to"—or something of that sort. I do not recall the exact language, but I mean that was—

Senator PEPPER. That is, you indicated to the legislative committee that subsequent to the passage of the law and when the question of meaning and interpretation should arise, that you would come back to and consult with the Joint Management-Labor Committee as to what the meaning of the law should be.

Mr. DENHAM. You will not find that in the record.

Senator PEPPER. Well, let us find here now—

Mr. DENHAM. You may find something from which you might want to draw an inference of that sort, but I do not think you will find that language in the record.

Senator PEPPER. Maybe I did not have it exactly accurate. Reading from page 2 on the hearings of your confirmation:

Senator BALL. Has the Board or the staff developed a series of questions as to the—

now this is after you were appointed general counsel, is it not?

Mr. DENHAM. As I recall, yes.

Senator PEPPER. You had already been appointed as general counsel, but had not been confirmed. You were functioning as general counsel at that time?

Mr. DENHAM. I think so. I do not recall the date of that, Senator Pepper.

Senator PEPPER. Well, you recall that you were appointed general counsel before you appeared before the committee to be interrogated by the committee?

Mr. DENHAM. Oh, most assuredly.

Senator PEPPER. Now [reading]:

Senator BALL. Has the Board or the staff developed a series of questions as to the interpretation of various provisions and how they would actually be applied that you have seen?

Mr. DENHAM. To a large degree; yes, sir.

Senator BALL. I wonder if you would feel, if you are confirmed, that it would be in keeping with your responsibilities to consult with the Joint Committee that was established by the act as to their interpretation of those various questions before you yourself took a final position on them?

Mr. DENHAM. I should feel it would be a privilege to do it, sir.

Senator BALL. I take it you would feel that way generally about any question that arose in your own mind as to the proper interpretation of any provision to consult with this committee which includes, I believe, every member of the

conference committee of both Houses on the act as to what they think would be the proper interpretation.

Mr. DENHAM. Very definitely. After all, this act has to be administered in accordance with the intent, and I definitely would not want to undertake to resolve any question that might not be clear in the act, without making sure that I knew what the intent was, and this is a source of information on that subject.

Senator BALL. Is it your understanding that the regional offices of the Board will be directly under your supervision?

And so on. Is that a correct report of what was said?

Mr. DENHAM. That is a correct report of what took place; yes, sir.

Senator PEPPER. Now do you know of any other general counsel for any other national board or commission that has ever made any such statement as to that to a committee of Congress?

Mr. DENHAM. I do not know of any other general counsel to whom that question or similar questions have ever been put.

Senator PEPPER. But you do not know of any other counsel that has ever taken that position?

Mr. DENHAM. I do not know as it has ever been put. I do not know anything about it, Senator Pepper.

Senator PEPPER. You are a lawyer of long experience and wide experience, are you not, Mr. Denham?

Mr. DENHAM. I have been admitted to the bar for several years.

Senator PEPPER. You were deemed adequately equipped to be general counsel of the——

Mr. DENHAM. I think the term "general counsel," Senator Pepper, is a misnomer, but then that is all right. I do call myself a lawyer and I have been a member of the bar for some forty-odd years.

Senator PEPPER. What is your official position?

Mr. DENHAM. The title is general counsel.

Senator PEPPER. That is what I thought. What I was asking was, as a lawyer and as general counsel of the National Labor Relations Board, is that statement consistent with the generally accepted methods of how the intent of the statute is to be discovered either by a lawyer or by a court?

Mr. DENHAM. The legislative history, in the first place, is one of the sources to which we go in attempting to find out what the meaning, what the intent was, that is of record.

Senator PEPPER. Do you think the Supreme Court would call the committee over there——

Mr. DENHAM. No, sir.

Senator PEPPER. That reported-out legislation, to sit down and have lunch with them, have a round-table discussion with them and find out what the gentlemen meant over there in the Congress about that law that we are going to interpret tomorrow.

Mr. DENHAM. No, sir; I do not think so.

Senator PEPPER. You would regard that as the judicial approach to the matter, would you?

Mr. DENHAM. Hardly.

Senator PEPPER. Ordinarily the court would look at the hearings and the reports of the committee and the wording of the statute and, so far as you know, there is no precedent for that sort of source of information for the interpretation of the meaning of a law passed by Congress?

Mr. DENHAM. In the main, no, sir. Your general source of information on that is your legislative history. There is no question about that.

Incidentally, there were no such conferences with the joint board, the joint committee. They were never called upon or questions given——

Senator PEPPER. Did you or any member of your staff confer with any members of that Joint Labor Committee or with this committee thereafter upon any problems that arose?

Mr. DENHAM. None except in the open hearings.

Senator PEPPER. You did not confer with Senators in any private relationship at all?

Mr. DENHAM. No. We had numerous occasions, Senator, when some of the other members of the staff would come down to the office, such as Mr. Shroyer, and would want to get information and we would discuss generally the picture, but so far as conferring with any member of the committee is concerned——

Senator PEPPER. Mr. Shroyer was general counsel of the Joint Management-Labor Committee, of which Senator Ball was the chairman?

Mr. DENHAM. That is right.

Senator PEPPER. Did Mr. Shroyer talk to you about the interpretation of this act, the application in various cases?

Mr. DENHAM. I do not recall any time that that was discussed.

Senator MORSE. Will the Senator from Florida permit a question, at this point, of the Senator from Florida?

Senator PEPPER. Yes.

Senator MORSE. I have been very much interested in what the Senator has been drawing out in regard to the policy of the joint committee. Does the Senator from Florida favor the continuation of the joint committee?

Senator PEPPER. Well, I am inclined to think it would be an advantage to continue that because I think it would be only fair, since the so-called watchdog committee was appointed to observe the functioning of the Taft-Hartley law, to let another committee with a Democratic majority have an opportunity to observe and report upon the functioning of the Thomas bill when it becomes law, and file reports and conduct hearings and see whether or not the majority on that committee is not satisfied there has been a great improvement by the adoption of the Thomas bill.

Senator MORSE. Will the Senator permit me to make an interpretation of his remark, that it is a confession that there is another section of the Taft-Hartley bill in principle which the Senator from Florida is willing to accept.

Senator PEPPER. Yes; I think that I would be willing to start right after to use that part of it saying, "Be it enacted," and strike out everything after that.

Senator MORSE. Will the Senator from Florida permit me to say that this is one section of the Taft-Hartley bill that I most certainly would not favor continuing, and for the very reason which the Senator from Florida is bringing out in this examination, namely, that I think you cannot escape the potential danger of a committee of the Congress interfering with what I consider to be a clear quasi-judicial function of an administrative tribunal.

That is why I spoke against it on the floor of the Senate, and I hope that on reconsideration I will get the Senator's vote with me to discontinue it under any bill we pass.

SENATOR PEPPER. Senator, I want the Senator from Oregon to know that we are in hearty accord on what the committee should not do. I was shocked, and I do not know but that I indicated it in these hearings I think over there somewhere, I did interrogate the witness about something along the line of the interrogation that I made just a minute ago.

MR. DENHAM. I think I recall that.

SENATOR PEPPER. That I thought that was rather a shocking thing to say. I did not say it today. I said it then when the matter was before the committee, but as I said, I thought that was a shocking thing for the general counsel to say, and I can assure you that I have been a member of that joint committee myself and I think Mr. Denham will say that I have never tried to influence his interpretation of the law.

MR. DENHAM. I might say, Senator, that there have been no members of the joint committee who have attempted to influence our interpretation of the law or application of it at any time.

SENATOR PEPPER. I am not saying that they have, but I will say that if the committee should be continued for the purposes I stated a while ago, seriously, so that it will see whether or not a different approach to this subject does not get more industrial peace and greater production in this country, I think it would only be appropriate to have a committee that might make inquiries from time to time and collect information and data, but certainly not to attempt to usurp the power of influencing the Executive in the constitutional discharge of his duty to see that those laws are enforced.

MR. DENHAM. I can assure you that no member of the committee nor any representative of the committee, so far as I know, made the slightest gesture in that direction.

SENATOR HUMPHREY. Senator, would you yield for a question?

SENATOR PEPPER. Yes.

SENATOR HUMPHREY. I have read in the newspapers some sharp words between the President of the United States and the Senator from Ohio in reference to a meeting that was supposedly held in the Senator's office or near that vicinity just prior to the contempt charges, I believe, in the ITU case. Now were there any members of the general counsel's office present at such a meeting?

MR. DENHAM. Senator Humphrey, at that time I was in the hospital.

SENATOR HUMPHREY. I did not say yourself.

MR. DENHAM. I was not present.

SENATOR TAFT. I will be glad to make a statement on it exactly.

MR. DENHAM. All right, Senator.

SENATOR TAFT. One of my constituents, Mr. John S. Knight of the Akron Journal, came to me and said that the Board had obtained an injunction against the ITU in a case in Indianapolis and that the injunction was being violated and he felt that the general counsel's office was not acting promptly enough. They were permitting it to be violated without taking action.

I called the general counsel's office and interviewed two of the gentlemen and urged upon them this fact, that if that was true, I did

not think there should be a delay because of Mr. Denham's absence in the hospital, that if this act was going to be enforced at all, if you have an injunction and have a prima facie case, it was their job to go ahead and take prompt action, whatever kind of action they thought was right, after knowing the facts, and I did not purport to say whether the facts were right or not.

I will say I will do that for any constituent of mine in Ohio and any other Senator will do it and has done it, go to a department where it is alleged that they are not acting promptly as they should act under the law, and urge upon them prompt action if they think the facts justify it. I will do that at all times in the future, and I did it at that time.

Those are the only circumstances regarding that particular case. I would do it for any labor union that came to me under the same circumstances, that had an injunction and claimed that the general counsel's office—yes, there is no question about it. I think any Senator recognizes that if his constituent comes to him and says that an administrative body of this Government is not doing what it should do under the circumstances, that a Senator will go and see that administrative board and urge that they take action.

He will not, as a rule, assume to know what the facts are or assume to pass on the merits of it. He will simply say, "Here is this complaint I have received from a constituent. I wish you would look into it and take prompt action, whatever you think may be right," and that is exactly what I did in this case, and I say I will do it again, not only with this Board but with any other board in the United States Government.

Senator HUMPHREY. Senator Taft, did you hold a meeting in your office—

Senator TAFT. I was here 1 day, I think, at the time, and these gentlemen offered to come to my office. I offered first to go up there and then we had a Republican caucus that day and I was only able—they came to my office. I was able to come out of the caucus for 10 minutes, if I remember correctly, and I urged them first to see these gentlemen.

Senator HUMPHREY. Yes.

Senator TAFT. Mr. Knight and other people that were associated with him, and I left them in my office and I came out for about 10 minutes and simply urged if they thought the case was justified, to take prompt action, and as I recollect my chief point was they ought not to delay simply because Mr. Denham was sick, out for a period of a month or 2 months.

They ought to take action if they thought action was justified, and that was the extent of my interference.

Mr. DENHAM. I have here copies of the correspondence. I have Mr. Findling's letter to the President when the question was raised at the instance of the ITU, and the President's reply to Mr. Findling's letter which you may be interested in seeing, Senator Humphrey. If you do not have it, you might even want to put it into the record. I will be very glad to make it available to you if you want it.

Senator HUMPHREY. I have one or two questions—

Mr. DENHAM. There is one thing in there that I think should be clarified at this point. I have heard a great deal about this after I got out, after I was able to be about again.

In May, possibly in April, attorneys for the various newspapers who are interested in the injunction proceeding and the case on which it was based came to us and on frequent occasion said, "Do you know in Dallas, Tex., or in Houston or out in Kalamazoo or some place else the ITU is doing this, that, and the other thing in violation of this injunction. You ought to do something about it."

We tried to find out what they were talking about and we could not get any very definite proof.

They were coming in from all over the country, and as I recall, it was in the latter part of June we had gotten these complaints together, these various complaints which were scattered over the country. We took four or five men who are excellent investigators and assigned them an area of these alleged violations to investigate so that we would be in a position to present the facts to the court if there in fact were violations. When this incident occurred, it having been a matter of discussion, those men who had been out in the field had accumulated this information and had returned to Washington. They were in the process then of putting their report together showing the facts which were presented to Judge Swygert later on and which were tried fully on the merits and on which he made a finding that there had been contempt and he acted accordingly.

At the time of the conference referred to here, all the proceedings, everything that could be done toward finding out whether there was a contempt of this injunction, not only had been instituted but the investigation had been practically completed and we were ready to move.

Senator HUMPHREY. Despite the fact, Mr. Denham, that on April 15 of the same year in which the contempt proceeding was issued or was instituted, the trial examiner of the NLRB could not find the proposals of the ITU that were unlawful. Is that not correct?

Mr. DENHAM. That is quite true. Trial examiners have been reversed too. I am not sure that that was done in April—

Senator HUMPHREY. I said August 15.

Mr. DENHAM. You said April.

Senator HUMPHREY. I am sorry, sir. I meant August 15. Also the majority report—I have here the copy of the minority views of the Joint Committee on Labor Management, and here it quotes in italics the words "of majority." This is the April 1 report of 1948.

It says, "The action of the union, the ITU, in insisting on what appears to be a closed shop now prohibited by law is most unfortunate," and it goes down to call for compliance.

Well, it seems to me there is a sequence of events here. You have an April report on the part of the joint committee which is the watchdog committee, that draws almost a judicial decision as to whether or not the union is in violation, and secondly you have this matter of the meeting on July 28 which was much kicked around in the newspapers at the time, and we had a political campaign on. We all know that, and therefore I suppose it got extra publicity.

The August 15 trial examiner that held these proposals were not unlawful, and the August 25 contempt proceedings instituted—it just kind of adds up to what Senator Pepper is talking about, the influence of consultation with the committee or the action of a committee that apparently saw eye to eye with you upon this particular law.

By the way, is it not also true that these same proposals which were considered to be the charge——

Mr. DENHAM. I beg your pardon.

Senator HUMPHREY. Is it not also true that these same proposals of the ITU which were considered to be adequate evidence of the violation of the injunction were at one time literally approved by your office in the New York case?

Mr. DENHAM. No, sir.

Senator HUMPHREY. They were not at any time? You had never been apprised of them?

Mr. DENHAM. Oh, heavens, we had been apprised of the things that they were talking about.

Senator HUMPHREY. That was in April.

Mr. DENHAM. We have known about the things for a long time.

Senator HUMPHREY. Why did you have to wait until August?

Mr. DENHAM. There have been several cases, and in, I think it was May of 1938——

Senator HUMPHREY. 1948.

Mr. DENHAM. 1948, one trial examiner had handed down a decision in this case which found that they were illegal and improper.

Senator HUMPHREY. On the New York proposals?

Mr. DENHAM. On the proposals that were in issue in that case. Now the New York proposals came along, the closed-shop proposals we are talking about.

Now the New York proposals are something that came along later, Senator. I do not want to get confused on the thing. We have to carry it along from one line to the other, but when Mr. Myers' report came down, we had that. We had our experience on the Baltimore case without any report at the time.

Senator HUMPHREY. That is right.

Mr. DENHAM. We had these questions that were being raised by the attorneys concerning conduct and incidents that were occurring, and in June we sent out our crew of investigators to find out how much merit there was to these complaints, and when this meeting in the latter part of July took place, they had just gotten back and were in the process of completing their report.

Senator HUMPHREY. Is it not true that on March 27, 1948, Federal Judge Swygert issued an injunction restraining the ITU from using the form P-68, which was a form to evade this whole business of the agreement? I mean it was something just to get a working relationship between employer and the union.

Mr. DENHAM. I do not want to try and discuss the details of the injunction order, Senator, because that is something that these gentlemen behind me know about, but——

Senator HUMPHREY. There was an injunction in March?

Mr. DENHAM. Yes.

Senator HUMPHREY. Almost contemporaneously there was also what was known as the New York agreement, the New York agreement with commercial printers. Is that not correct?

Mr. FINDLING. May I answer?

Senator HUMPHREY. Just a minute. New York agreements with commercial printers Local 6. A clause of that agreement provided a demonstration of competency on the part of the union members, and

that was cleared more or less with your office, as I understand it. Is that correct, Mr. Denham?

MR. DENHAM. I would like to ask Mr. Findling or Mr. Johns, who were directly in charge of these details, to answer that, if I may have your permission to do so, Mr. Chairman.

THE CHAIRMAN. Mr. Findling.

MR. FINDLING. Thank you. That is incorrect, Senator.

SENATOR HUMPHREY. Now what is incorrect?

MR. FINDLING. It is incorrect that we approved the proposal for the incompetency clause in New York.

SENATOR HUMPHREY. I will take back the word "approved." I mean it was brought to your attention. You did not register objection?

MR. FINDLING. We registered objection.

SENATOR HUMPHREY. Did you?

MR. FINDLING. Yes, sir. I will be very happy to produce the transcript of the hearing in Judge Swygert's chambers at which reference was made to an informal arrangement that Mr. Van Arkel has worked out with ourselves as to what might be regarded as compliance with the decree in which I said on the record that we had some reservations about that particular clause.

SENATOR HUMPHREY. What particular clause was that?

MR. FINDLING. The clause that determined competency on the basis of union membership or nonmembership. I remember during the preliminary conversations we had in the judge's library there were three or four items of disagreement between us that were the subject of most of the conversation.

I remember—I can refresh my recollection as to all of them, but I remember—very distinctly that one of them was this very clause that was in the New York printers' agreement.

SENATOR HUMPHREY. You had some reservation then?

MR. FINDLING. There, we insisted that we would not agree with it, and Mr. Van Arkel and Mr. Kaiser then withdrew it after thinking about it at lunch.

SENATOR HUMPHREY. That is right. It was just a proposal. That is what I am trying to get at. It was not necessarily applied, but it was a proposal, is that right, on the part of the union attorneys? It was a proposal.

MR. FINDLING. That is right.

SENATOR HUMPHREY. Let me ask you a question. Was it not on that proposal plus other proposals that the contempt proceeding was instituted?

MR. FINDLING. Yes.

SENATOR HUMPHREY. Yes, you bet, on the proposal; just the fact that you talked it over.

MR. FINDLING. May I make a statement on that, Senator?

SENATOR HUMPHREY. Yes.

SENATOR MORSE. Mr. Chairman, may I make a statement, if the Senator from Minnesota will permit me to.

Mr. Denham has been on the stand now for about 5 hours. It is perfectly obvious that we are not going to finish the discussion that the Senator from Minnesota is now taking up with an entirely new witness whom I do not know anything about. He has not been quali-



fied, and I think it is about time to adjourn for the evening, Mr. Chairman, and I would like to put a motion on the table for consideration at the beginning of tomorrow morning's session.

Senator HUMPHREY. Just a minute, now. Let us finish this out. The other side of the table has had its fair share of the witness. I would like to just complete this. We have about 7 minutes.

Senator MORSE. I am asking for the courtesy of putting a motion on file. You do not have to discuss it. You will certainly permit me to make a motion to be considered.

Senator HUMPHREY. Well, I would like to finish this out. Go ahead, put your motion.

Senator MORSE. You cannot possibly finish tonight. I have got a lot of questions to ask him tomorrow.

I would like to move, Mr. Chairman, that we proceed tomorrow morning at the beginning of the session to consider a proposal of the Republican side of this committee to extend these hearings for 2 weeks without night sessions.

The CHAIRMAN. The chair will refer the motion. It has not been seconded.

Senator DONNELL. I second it, Mr. Chairman.

The CHAIRMAN. The Chair will refer the motion to the subcommittee which has been handling the hearings, for their recommendation, and if we can handle it that way, then the first order, Senator Morse, would be for the subcommittee to consider and bring in the recommendation.

Senator TART. I wonder if we could have the recommendation tomorrow morning, as Senator Morse suggests, however, so that we know where we are heading.

The CHAIRMAN. I leave that to the chairman of the subcommittee.

Senator MORSE. I think that is very important, Mr. Chairman, because I do think these witnesses are entitled to know what the schedule is going to be.

We have got a backlog of witnesses whom we cannot hear in an orderly fashion unless we extend the hearing. I think that is obvious.

Senator MURRAY. Mr. Chairman, I will be glad to call a meeting of the subcommittee immediately after the meeting is adjourned.

Senator HUMPHREY. I just want to complete this, because there is no sense in carrying this on until morning. Go ahead.

Mr. FINDLING. Of course, I am speaking from memory. As I remember it, Senator, in that preliminary meeting we had in Justice Swygert's library at which we discussed compliance with the decree, Mr. Van Arkel and Mr. Kaiser suggested the New York printing-shop formula which contained the clause to which you have made reference.

We opposed that. We said that we thought that was an unlawful clause, and we said we would not agree to it. There was no reservation about it whatsoever. Thereafter, they agreed to withdraw that clause and to substitute a clause. They said they would issue an instruction. We did not have any clause prepared. They said they would issue an instruction to this effect, and I would like to read from a mimeographed copy of what I understand is the transcript of testimony—this is a quote from the transcript before Judge Swygert in chambers.

Mr. Van Arkel says:

"We would advise locals,"—and this is the substitute clause for the one we have been talking about—"that they are free to bargain collectively with their employers with a view to setting up joint committees to determine the competency of applicants for employment," and I said, "provided in any event there is to be no discrimination," and I have reference, of course, to our conversation about that clause.

"Mr. Van Arkel: Let us put in the words 'nondiscriminatory procedures' for determining the competency of applicants."

Now, after that it came to our attention that the ITU had sent out—and by the way, we had another conversation about this later. We had proposed instructions before us which also provided that competency should be determined on a nondiscriminatory basis.

After that, we learned that the ITU had been sending out instructions that seemed to us to embody the substance, if not the exact language, of the clause in the New York print shops.

We were also getting complaints in the meantime from various cities—Mr. Denham has described that—with reference to continued insistence by ITU that employers discriminate in hiring practices.

Senator HUMPHREY. May I just say, I think we have got enough of that information for the record. What I was trying to point up was that there was, first of all, the March 27 injunction. There was the argument then over the New York agreement, and its interpretation, and that was sometime in April and March—at the same time, in fact, in March.

There were contracts that were concluded in Detroit, Chicago, and some other cities under the provisions there.

Mr. FINDLING. Not the newspaper industry.

Senator HUMPHREY. The printing case.

Mr. FINDLING. The printing case was not involved in the injunction procedure.

Senator HUMPHREY. Commercial printing. Then, you go into the Chicago situation. The Chicago situation in the newspaper industry follows immediately after statements by the Joint Labor-Management Committee meeting in the Senator's office, a trial examiner case, where there was a ruling that it was not unlawful, and then on August 25, the contempt proceedings. Is that the sequence?

Mr. FINDLING. Senator, I do not know the exact sequence, but I want to make two observations. In the first place, I am not aware that the trial examiner found that the insistence upon a clause such as we regarded as discriminatory in our contempt proceedings was nondiscriminatory.

My view was to the contrary.

Second, I want to say with much firmness, as much sincerity, as I am capable of, that nothing that transpired at any point in these things had any effect upon our decision, at least my decision, and I think I can speak for Mr. Johns and Mr. Denham as well.

Mr. Denham had very little to do with it, except, of course, he was told what the facts were and he made the final decision. But we made the recommendation.

I can say that there was nothing in anything that happened that influenced us to bring the proceedings except the merits of the case, and I would like to say further, Senator, that just before we instituted the proceedings—I think we filed the petition on Wednesday, and I

would like to correct the record if I am wrong on this, but my recollection is that on the previous Saturday we had a meeting. I was present. Mr. Johns was present. We had a sort of a small advisory staff meeting at which Mr. Van Arkel and Mr. Kaiser were present, and I might say that if any of the things that happened affected us in any way, they affected me in the sense that I wanted to do everything I could to avoid the necessity of a contempt proceeding, not because there was necessarily anything, Senator, improper in what had happened, but that was the feeling it left in me.

I wanted to do what I could to avoid bringing the proceeding, if possible. We had this meeting, and I told Mr. Van Arkel and Mr. Kaiser that they had worked out a deal in New York in the newspapers. We are not talking about the printing shops now; this is newspapers.

Senator HUMPHREY. Newspapers.

Mr. FINDLING. I said then, "On the surface, we do not know whether that can work in other cities. I am not ready to give you *carte blanche* that it is all right, but I make this proposal to you: Would you be willing to withdraw the instructions you have issued which we think are improper and substitute these others?"

I am speaking from recollection, and I would be glad to be corrected if Mr. Van Arkel or Mr. Kaiser want to make corrections.

My recollection is that they said, or at least one of them said, "Now, we have made these agreements. We have made various agreements. We cannot withdraw these. We cannot admit that the agreements are wrong"; and I said, "I do not ask you to do that. Can you issue an instruction that says in substance that 'inasmuch as some question has been raised as to the propriety of the instructions previously issued and inasmuch as we have worked out another arrangement in New York, we recommend to you that you use the other?'"

They said they would let me know whether they would take that or not. I think Mr. Van Arkel was going to the ITU that night, and I think we agreed that we would wait until Tuesday, and then they called me. I think Mr. Kaiser called me and said they could not accept that. The point of it is that I made every effort to avoid the necessity of bringing that contempt proceeding.

Senator TART. May I add one thing? When you did bring it, the court found that it was contempt.

Mr. FINDLING. Yes, sir, by clear and convincing evidence.

Senator HUMPHREY. On the basis of probable cause.

Mr. FINDLING. No, Senator. In the contempt proceedings, the issue was clear and convincing evidence that the ITU was still insisting on clauses that required employers to discriminate. That was the issue in the contempt proceedings. You are correct about the injunction proceedings. There, the probable cause—

Senator HUMPHREY. Yes, but the point is the contempt proceedings were issued on the basis of the injunction, and the injunction was issued on probable cause.

Mr. FINDLING. You are right, Senator.

Senator DONNELL. Would the Senator yield for just one moment?

Senator HUMPHREY. I think the time is out, so I am perfectly willing to yield.

Senator DONNELL. May I just ask this one question of Mr. Findling. You spoke about the injunction having been issued under probable cause.

I hold in my hand what purports to be the text of the Swygert findings and decree in the injunction case.

I call attention to this fact; that in the course of it is this language, the findings of fact, and conclusions of law of the judge:

All parties were afforded full opportunity to be heard, examine and cross-examine witnesses, present evidence bearing on the issues, and to argue on the evidence and the law.

Was that the procedure, Mr. Findling, that occurred in the injunction suit?

Mr. FINDLING. Yes. The Senator from Minnesota is correct when he says that the issue before Judge Swygert was whether or not there was probable cause.

Senator DONNELL. Oh, yes, I have no doubt about that.

Mr. FINDLING. But that is the usual test of a preliminary injunction.

Senator DONNELL. Will Mr. Findling yield just a moment, please?

Senator HUMPHREY. Mr. Findling is, of course, correct in his statement about the probable cause. The decision of the court's findings of fact, paragraph 7, begins with the words "The evidence indicates a probability of the existence of the following facts," but the point I am making is it was not a decision upon mere affidavits.

Senator HUMPHREY. Oh, no.

Senator DONNELL. It was after affording full opportunity to be heard, examine and cross-examine witnesses, present evidence on the issues, and to argue on the evidence and the law.

May I ask Mr. Findling, were there, in fact, witnesses heard and cross-examined?

Mr. FINDLING. The hearing took 2 weeks, as I remember it.

Senator HUMPHREY. I do not say that all the rules of evidence and of good court practice were not followed. I agree they were. My only point is, it took from March 24 or so, 1948, to August 25, where you had an injunction that was hanging over the heads of workers on the basis of probable cause, which is a denial——

Mr. FINDLING. That is correct, Senator.

Senator HUMPHREY. A complete denial of their right to properly negotiate a settlement.

Mr. FINDLING. Senator, I cannot argue that question. The law is on the books.

Senator HUMPHREY. Do you like that part of the law?

Mr. FINDLING. I prefer that you do not ask me that.

Senator HUMPHREY. I prefer that you answer that.

Mr. FINDLING. If you insist on an answer, I will give it. No; I do not.

Senator HUMPHREY. You do not like that. Fine. That is all I would like to know. Thank you.

The CHAIRMAN. The Chair wishes to have inserted in the record a letter from A. F. Whitney, president, Brotherhood of Railroad Trainmen.

(The letter referred to is as follows:)

BROTHERHOOD OF RAILROAD TRAINMEN,  
Cleveland, Ohio, February 8, 1949.

HON. ELBERT D. THOMAS,

*Chairman, Senate Committee on Labor and Public Welfare,*

*Washington, D. C.*

MY DEAR SENATOR: I was scheduled to appear before your committee at 9:30 this morning, but was advised that your work is behind schedule, and that you may not be able to hear me until tomorrow, February 9. Some days ago I forwarded to you 75 copies of my statement, and understand that you have received them.

Due to other commitments, it will be necessary for me to leave Washington tonight. However, I have assigned Mr. B. A. Whitney, who is at the head of our educational and research bureau, to read my statement to your committee and to answer questions that may be asked him.

I trust that your distinguished committee will find time to listen to the reading of my statement; but, should the pressure be such that you cannot do so, may I ask that the committee accept the statement without reading as the official statement of the Brotherhood of Railroad Trainmen in supporting S. 249 and in condemning the many provisions of the Taft-Hartley Act therein referred to.

Our position is in the interest of the preservation and development of industrial peace, and to avoid and avert strife. We equally appreciate the courtesies extended to the Brotherhood of Railroad Trainmen and its representatives in these matters.

Sincerely yours,

A. F. WHITNEY, *President.*

The CHAIRMAN. And also the Chair would like to have inserted in the record a release from the NLRB of September 14, 1948; also page 16, section E, of the Minority Report of the Joint Committee on Labor-Management Relations.

(The papers referred to follow in turn:)

[Immediate release]

SEPTEMBER 14, 1948.

The President, on August 20, last, sent the following letter to the Honorable David P. Findling, associate general counsel, National Labor Relations Board:

"DEAR MR. FINDLING: I read your letter of August 19, regarding the meeting in Senator Taft's office with the publishers and the Chicago newspapermen, with a lot of interest.

"I seems to me that it is entirely improper for any Senator, no matter what his politics or his rank in the Senate may be, to attempt to put the heat on one of the executive departments.

"In my conference with the National Labor Relations Board on its organization, I informed the members of that Board and the counsel that they constituted a part of the executive branch of the Government; and, since the Chief Executive did not expect to interfere in their internal affairs, he expected that they would be immune to pressure from the legislative branch of the Government.

"I sincerely hope that the counselors of the National Labor Relations Board will bear this admonition in mind in the transaction of public business.

"Sincerely yours,

"HARRY S. TRUMAN."

(The text of Mr. Findling's letter to the President, under date of August 19, is as follows:)

MY DEAR MR. PRESIDENTS We have been advised that you have requested a report concerning a recent conference in Senator Taft's office, having to do with the Typographical Union and newspaper publishers. The following is my recollection of what occurred.

At the request of Senator Taft, relayed to me through Mr. Shroyer, chief counsel for the Joint Committee on Labor-Management Relations under the Labor Management Relations Act, 1947, Mr. Johns and I went to Senator Taft's office at 11 a. m. on Wednesday, July 28, 1948. Mr. Johns is Chief of the

District Court Injunction Section of the general counsel's office and has the responsibility for conducting litigation involving temporary injunctive relief under sections 10 (j) and 10 (l) of the National Labor Relations Act, as amended.

At the opening of the meeting, there were present in the Senator's office, in addition to Senator Taft, Mr. Shroyer, Mr. Johns, and myself, Mr. John S. Knight, publisher of the Knight chain of newspapers (including a Chicago newspaper); Mr. E. M. Antrini, business manager of the Chicago Tribune; Mr. Richard J. Finnegan, editor of the Chicago Sun, and Mr. Robert C. Bassett, counsel for the Hearst newspapers (including the Chicago Hearst newspaper).

After conventional preliminaries and introductions, Senator Taft said that he appreciated our coming to his office, and that he wished to discuss the Typographical Union proceedings. He stated that, under the present structure of the National Labor Relations Act, the enforcement of the statute, including utilization of the injunctive procedures of the act, had to be through the National Labor Relations Board; and that, although he had originally entertained a different view, his colleagues had persuaded him that it was undesirable to permit private parties to enforce the provisions of the act by injunctive litigation privately instituted. He said that he regarded the ITU case as the most important case that had come to the Board and that it stood as a symbol to many Members of the Congress and, he believed, to the public of the effectiveness of the enforcement machinery of the statute. He said that he was therefore greatly disturbed by reports that had come to him from various sources, indicating that there was a serious break-down of the enforcement machinery in the case of the Typographical Union and the publishers. He declared particularly that, in a situation where the general counsel's office had sought and obtained an injunction, it was, he believed, the Government's responsibility to see that the injunction was obeyed.

Mr. Johns and I said that we were in no position to discuss the details of the Typographical Union's conduct insofar as it involved a possible violation of the injunction because we did not have all of the facts at our command; that we had sent staff investigators into various cities all over the country during the previous several weeks to obtain information as to exactly what was happening in negotiations between publishers and the Typographical Union, and that these investigators were then in process of preparing a written report correlating the data that they had obtained. We said that we expected to have their report in our hands within a week, and that the general counsel's office would then be in a position to make a determination as to whether or not there had been a violation of the decree. We stated emphatically our awareness of our responsibility to the public and to the court; that, as Mr. Denham had publicly stated, the injunction had not been idly sought, and that if violations of the injunction were occurring we would promptly call them to the court's attention.

Senator Taft repeated in substance that he had called us because he wanted us to know that he was keenly interested in effective enforcement of the statute and that in his view and in the view of the joint committee, the Typographical Union case was the most important proceeding that had arisen under the new act. He then excused himself, saying that he might return if he could get away from another meeting which required his presence.

Thereafter, the meeting continued in Senator Taft's office, with the publishers discussing in great detail the present status of the negotiations in Chicago from their point of view and with particular reference to whether or not certain demands made by the union in the negotiations were prohibited by the injunction decree. During this discussion, the publishers indicated that, if the injunction decree did not prohibit all of the conduct they thought unlawful, they wished us to enlarge the decree or to institute another injunction proceeding. We questioned the practicability of any such suggestion, but said we would consider it further. Mr. Shroyer was present throughout these conversations and participated in them to the extent of indicating from time to time his and the Joint Committee's interest in the situation in the newspaper industry.

The meeting closed at about 12:45 p. m., with the understanding that after we had had an opportunity to study and analyze the report of our investigators we might wish to discuss the situation with the publishers' attorneys in Washington. The publishers assured us that their representatives would be available for any discussions we desired to have. Senator Taft did not return to the meeting.

Very respectfully,

DAVID P. FINDLING.

## E. LEGISLATIVE INTERFERENCE WITH EXECUTIVE AND JUDICIAL FUNCTIONS

We have heretofore referred to the duties defined for the Joint Committee on Labor-Management Relations in sections 401, 402, and 403 of the act. The performance of these duties has involved close relation between the members of the committee and officials of the Government performing executive and judicial functions.

This close relation results from the obligation on the part of the committee to conduct "a thorough study and investigation of the entire field of labor-management relations," and its further obligation to report to the Congress as to the necessity for additional legislation in the field.

We have recognized the necessity for an extended review of labor-management relations. Indeed, during the last session of Congress, we submitted a bill to provide for such a study. However, we feel that the performance of the duties by the joint committee involves the risk that there may be an unwarranted and unconstitutional intrusion in the fields preserved by our Constitution for the executive and judicial power.

Close and frequent contact with officials in the other two branches of the Government lends itself to such improper intrusion. We do not say that such an intrusion has occurred; we merely point out the danger.

We raise the problem at this time because certain aspects of the majority report may be interpreted as effort on the part of the committee to extend legislative influence beyond constitutional limits. No doubt these aspects of the majority report are not so intended, but we feel that, despite the lack of improper motive, the attention of the majority should be called to these aspects of their report so that there is no recurrence.

The problem which we raised is particularly noticeable in the discussion in the report of the cases involving the International Typographical Union. The majority states in this portion of its report that: "The action of this union (the ITU) in insisting on what appears to be a closed shop, now prohibited by the law, is most unfortunate."

This is followed by an exhortation to the union "to comply with the law." These statements, taken together with the detailed presentation of the facts involved in the ITU case, indicate a prejudgment on the part of the members of the majority of the issues now pending before the Labor Board and the courts.

The committee at the very outset of its operations established the rule, which we believe a salutary one, that it would not intervene in matters which were in litigation. We believe that the majority's handling of the ITU cases constitutes, in its effect, violation of this salutary rule. We deem this most unfortunate, particularly since the union is now bitterly contesting both before the Labor Board and the courts the position which the majority takes.

The danger raised by the handling of the ITU case is that the committee's views, which are given wide circulation and carry considerable weight, may exercise an improper influence upon the agencies and the courts which are called upon to determine the issues involved.

There are other portions of the report which may give rise to the same criticism. For example, the committee in its discussion of the rights of employees refers to two cases now pending before the Labor Board and concludes with the statement: "Since both of these cases involve interpretation of one of the provisions of the act, the committee will closely follow their conclusion by the Board."

And again, on page 32 of its report, discussing the problems raised by State laws concerning compulsory union membership, the committee says: "The committee will follow closely the Board's decisions of these cases wherein its interpretation of section 14 (b) is involved. If the Board find that legal construction requires acceptance of the view that takes no consideration of the State laws on compulsory-union-membership contracts, the committee may deem it advisable to recommend corrective amendments to the act."

As we have stated, we have no doubt these portions of the majority report are not intended to intrude into prohibited areas. However, they may, we feel, have that very effect.

We shall discuss another aspect of the same problem as it affects current labor-management disputes in our comments on the plant-study reports.

The CHAIRMAN. We will meet at 9:30 in the committee room in the Capitol.

(Whereupon, at 10:09 p. m., an adjournment was taken until 9:30 a. m. Wednesday, February 9, 1949.)





## LABOR RELATIONS

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WEDNESDAY, FEBRUARY 9, 1949

UNITED STATES SENATE,  
COMMITTEE ON LABOR AND PUBLIC WELFARE.

*Washington, D. C.*

The committee met, pursuant to adjournment, at 2:40 p. m. in the committee room, United States Capitol, Hon. Elbert D. Thomas (chairman) presiding.

Present: Senators Thomas (chairman), Murray, Pepper, Hill, Neely, Douglas, Humphrey, Withers, Taft, Smith of New Jersey, Morse, and Donnell.

The CHAIRMAN. The committee will come to order.

Mr. Denham, please.

Senator Donnell, you may inquire.

### STATEMENT OF HON. ROBERT N. DENHAM, GENERAL COUNSEL, NATIONAL LABOR RELATIONS BOARD—Resumed

Senator DONNELL. Mr. Denham, in the course of the testimony last evening you were asked with respect to whether or not you furnished me with a memorandum concerning changes which you thought were desirable to be made in the Wagner Act, and your attention was called to a portion of page 5 of the testimony on July 23, 1947, before this committee.

During the course of that testimony at page 5 there appears this language, first, quoting from myself, addressed to you:

Would you tell us, please, whether or not you furnished me some few months ago with a memorandum concerning changes which you thought were desirable to be made in the Wagner Act?

Mr. DENHAM. Yes, sir.

Senator DONNELL. Do you recall whether in the Taft-Hartley Act any of those changes which you suggested are made?

Mr. DENHAM. I was very much gratified to find the major portion of those suggestions incorporated in the Taft-Hartley Act.

Mr. Denham, would you please state again just in order that we may get a starting place, where and when it was that this matter of the preparation of such a memorandum arose?

Mr. DENHAM. As I recall, Senator, it was along in the fall, and I think in the general neighborhood of Thanksgiving time in St. Louis. You were in an office there, and I was hearing a case; by virtue of our long-standing friendship, I got in touch with you and I think we had lunch together.

We discussed, as to me would seem natural, the work that I had been doing—the Wagner Act—trial examiner operations in connection with

the Wagner Act, and the fact that you were on this Labor Committee.

You suggested that—I think possibly—I do not know how it came about, whether it was one of those things that you suggested or there arose out of some suggestion that I had to make—at any rate, you said that you would like very much if I could give you some assistance in making an analysis of the operations of the Wagner Act, and those spots in it which I thought could be strengthened or changes that could be made in it to advantage.

I indicated a willingness to give you any assistance I could along that line, and then you said, "Well, now, wait a minute, before you do that I do not want to be in a position of working under cover on this thing, and I do not want you to do a thing unless you clear it first with Mr. Herzog, the Chairman of the Board."

Well, that was perfectly in order, and I went on back to Washington, got terribly busy, and had to apologize to you later for not having supplied you with any information over a period of some 60 or 90 days.

Then came the, I think it was what they call, the Burton-Hatch-Ball Act or one of those pieces of proposed legislation which contained a lot of matter that gave me a sort of guideline to use as a basis for commentary.

I prepared a running narrative commentary as to my thoughts in connection with that act, and the Wagner Act, and possibly some other things that were not in the Burton-Ball-Hatch Act, put them in the form of a memorandum, and in the meantime I had talked with Mr. Herzog, told him of the request, and he said, "Well, the Senator wants you to do that," and he said, "You ought to do it for him. You have my clearance on the thing. I would not publicize it, however." I have not publicized it except that which has been brought out in this matter. I sent Mr. Herzog a copy of the memorandum that I furnished you.

Senator DONNELL. Very well.

Mr. DENHAM. Yes.

Senator DONNELL. I would just like to ask Mr. Shroyer some questions. Let the record show that this is Mr. Thomas Shroyer, who, back in 1947, occupied what position, Mr. Shroyer?

Mr. SHROYER. Professional staff member of this committee.

Senator DONNELL. Did I turn over to you a memorandum which I had informed you I had received from Mr. Denham?

Mr. SHROYER. You did.

Senator DONNELL. Relating to the proposed labor legislation, and his suggestions with respect thereto?

Mr. SHROYER. Yes.

Senator DONNELL. Would you tell us, Mr. Shroyer, when it was, approximately, that I turned it over to you, this memorandum?

Mr. SHROYER. I can place it pretty closely, Senator, because last night when the subject came up, I remembered at the time you turned it over to me, I compared it with an analysis of the then committee print that had been considered in executive session of this committee, and I have checked to find that analysis this morning, and I find it was dated April 7, 1947.

Senator DONNELL. May I see that analysis for just a moment, Mr. Shroyer?

Mr. SHROYER. I remember that we took the memorandum from Mr. Denham to you and noted for you on the analysis on the margin,

wherein the Denham suggestions or some form of them were considered in the committee print. I do not remember that there were any that did not also appear in the committee print at that time. So it is sometime between April 7 and, I think it was, April 13 or 16 that the bill went to the floor.

Senator DONNELL. The bill went to the floor—if you will just help me with this tabulation that appears in this book—

Mr. SHROYER. April 17.

Senator DONNELL. 1947.

Mr. SHROYER. Then, my best recollection would be right around April 10 you gave this Denham analysis to me.

Senator DONNELL. Yes. What do you say that you found with respect to this analysis of the tentative committee print of April 7, 1947, which you just handed me? What did you find with respect to that and the Denham memorandum?

Mr. SHROYER. Well, simply, Senator, that I had no difficulty in showing in the margin analysis wherein all of the Denham suggestions, where they did jibe with anything we had in the committee print could all be found there.

Senator DONNELL. Did you find that substantially all of the Denham suggestions were found in this analysis of the tentative committee print of April 7, 1947?

Mr. SHROYER. Not at all in the same form, but in substance we found all of them.

Senator DONNELL. I see.

Mr. Chairman, I introduce into the record this analysis of the tentative committee print of April 7, 1947, and ask that it be incorporated therein.

The CHAIRMAN. It will be printed.

(The analysis of tentative committee print of April 7, 1947, follows:)

#### ANALYSIS OF TENTATIVE COMMITTEE PRINT OF APRIL 7, 1947

This committee print is a comprehensive bill containing six titles dealing with the following subjects:

1. Amendments to the Wagner Act.
2. Federal Mediation Service.
3. Monopolistic Practices of Labor Organizations.
  - (a) Restrictions on union welfare funds and on the check-off of union dues.
  - (b) Prohibition of certain types of boycotts and jurisdictional strikes.
  - (c) Providing for suability of labor organizations.
  - (d) Registration of labor organizations and requirement that financial statements be furnished to members.
4. Recess Study by Joint Committee of Senate and House.
5. National Emergencies Created by Labor Disputes.
6. Definitions.

#### TITLE I

In order that the amendments to the National Labor Relations Act may be more readily understood, the committee print has incorporated the amendments into the present act in italics. Provisions which have been omitted from the present act are in linetype. The changes in the present act will be considered as they appear.

Section 1: The addition of the word "some" before the word "employers" on page 1 is self-explanatory. The new paragraph which has been inserted on page 3 is to broaden the general statement of policy to cover the amendments creating remedies for unfair labor practices by labor organizations.

Section 2: The several amendments to the definitions section may be summarized as follows:

(1) The meaning of the term "person" has been amended to make it clear that it includes labor organizations. Because of the inclusion of unfair labor practices by unions in section 8, as amended, and the use of the word "person" in section 10, this definition required clarification.

(2) The term "employer" has been amended by the insertion of language which makes it clear that the Board may deem an employer association to be an employer, provided the individual employers in such an association have voluntarily delegated their authority to bargain collectively with their employees to such an organization. Under current decisions of the National Labor Relations Board, the Board itself has reached such a construction, relying on the phrase in the existing statute "acting in the interest of an employer." Although this interpretation has been challenged (*see Matter of Ship Owners Association*, 7 N. L. R. B. 1002; (103 F. (2) 993); 308 U. S. 401) the Supreme Court has never passed squarely on the question. Consequently, this amendment merely approves of those administrative interpretations. By the inclusion of the word "voluntarily," however, the bill makes it clear that the Board cannot treat an employer association as an employer insofar as any individual employer has failed to delegate the association to act as his bargaining representative or has withdrawn authority from it to act in that capacity. It should also be noted that an association is deemed to be an "employer" only to the extent that its members are in the same metropolitan district or county.

(3) The principal amendment to the definition of the term "employee" is that excluding any individual employed as a supervisor. The proposed amendment does not affect personnel having negligible supervisory duties but does exempt from the act employees who, under decisions rendered by the Board itself, would be excluded from bargaining units of the rank and file. The principal result of this amendment would be to prevent management representatives from being subjected to the discipline of unions. The Board itself reached this result in the *Maryland Drydock* case (49 N. L. R. B. 733), but this decision was subsequently overruled. The position of the present Board majority is that under the statute the Board has no discretion to exclude any supervisory personnel, no matter how high their position is in the managerial hierarchy. This construction is based upon the theory that the definition of employee in the act now excludes only three specific classes of persons: (1) Agricultural laborers; (2) domestic servants, and (3) children or spouses of employers.

The language in the proposed amendment is patterned after that contained in the Ellender amendment to last year's Case bill which was adopted by a majority vote of the Senate and concurred in by the House. It differs from it in three respects: (1) It includes guards as well as supervisory employees and time study men; (2) eliminates the requirement that the supervisor must have five employees in his charge, and (3) eliminates the exemption with respect to supervisors covered by collective agreement in 1935. It will be noted, however, that this amendment does not mean that employers cannot still bargain with such supervisors and include them, if they see fit, in collective-bargaining contracts. All that the proposal does is to prevent employers being compelled to accord supervisors the anomalous status of employees.

Another minor amendment to section 2 (3) is that it clarifies the exemption for agricultural laborers by making the term conform to that in the Wage-Hour Act. This should be read in conjunction with the proposed section 2 (15), which subsection is taken verbatim from the Wage-Hour Act. This definition, so far as the Wagner Act is concerned, was adopted by Congress in the current appropriations act.

(4) The term "representative" is amended so as to refer to either independent unions or locals of a national or international organization in contradistinction to the parent body. At the present time the Board, if the labor organization so requests, will certify a national or international union as well as a local. As will subsequently appear, the effect of this modification of the definition will have the effect of making the Board certify locals. (See secs. 8 and 9.)

(12) This is a subsection, containing the definition of "supervisor" which has already been described under (3).

(13) and (14). These amendments add two new definitions to the corresponding section in the existing act by defining the terms "plant" and "professional employee." The significance of these amendments appears in section 9, which is amended by this bill, which requires separate voting units of professional employees and separate tabulation (where a multiple-plant unit is being held appropriate) of the employees in each plant.

Section 3: This section amends the corresponding section of the Labor Relations Act by providing for the appointment of two additional members to the present three-man board. A new subsection (p. 10) contemplates that the Board may sit in panels of two or three members. In view of the proposed expansion of the Board's duties and the present backlog in current cases before the Board, it is thought desirable to enlarge the number of persons performing its quasi-judicial functions.

Section 4 (p. 11): The amendments to this section were drawn to remove certain long standing criticisms with respect to the way in which the Board conducts its judicial functions. What it does is to abolish the review division and place individual responsibility upon the Board members by allowing each member to have a staff of legal assistants. It seems desirable to have cases decided by the members, with the assistance of their law clerks, rather than by the corporate personality of a separate legal section. Because of the volume of work involved, it was not thought wise to restrict the number of law clerks each Board member should have. The amendment will give them as many assistants as necessary to permit the Board members to analyze the transcript of evidence in contested cases, but the responsibility of the final draft of the Board opinions would rest upon the Board member assigned to prepare it.

In the Morgan case, one of the leading decisions on administrative law, the Supreme Court enunciated the principle that "he who decides, must hear." Unfortunately, this salutary doctrine has not been given full effect in the adjudicating methods of the Board, since the procedure has developed of relying on the review staff as an institution and permitting trial examiners whose reports have been drawn into question at public oral arguments before the Board, to be present in executive session to defend their findings when the Board is in the process of making its decisions. This is a questionable practice, as is the practice at the trial stage of making the trial examiner submit his draft report for review to the supervisory staff before it issues. Both practices are prohibited by this bill in the interests of fair administrative procedure.

Section 8 (a) (3) (p. 14): The proviso to this section has been redrafted to abolish what is narrowly termed the closed shop, but would permit the union shop or other form of compulsory membership if certain conditions are met. An employer is permitted to make agreements requiring membership in a union as a condition of employment applicable to employees in a given bargaining unit 30 days after an employee is hired providing the agreement was first authorized by a poll conducted by the Board in which at least two-thirds of the employees voting, voted in favor of such agreement. The vote is further restricted by the provision that such two-thirds shall constitute not less than a majority of the employees in the unit. Under another proviso, it becomes an unfair labor practice to discharge an employee under a "union security" clause unless he fails to tender his dues and initiation fees. In other words, this amendment does away with the abuse of the closed union which may refuse to admit employees to membership either because its quota is filled or because of some discriminatory local rule as well as the abuse which some unions indulge in of expelling members who do not agree with the union leadership. It does answer the free-ride argument, however, the most familiar defense of the closed shop.

Section 8 (a) (5) (p. 15): Has been amended to permit an employer to refuse to bargain on the subject of compulsory union membership without running the risk of being found guilty of committing an unfair labor practice.

Section 8 (b): Defining as unfair labor practices certain kinds of undesirable conduct by a labor organization or its agents, is a new addition to the Wagner Act which now relates only to unfair labor practices by employers.

Section 8 (b) (1): The first of these amendments to section 8 would make it an unfair labor practice for labor organizations or their agents to interfere with or coerce employees in the exercise of rights granted in section 7. When the Wagner bill was reported to the Senate in 1935 similar proposals were rejected by the Senate committee on the ground that interference by labor organizers with employees amounted to a breach of local law and was punishable in local police courts. Experience of 11 years of administration with the statute has disproved this theory, for Labor Board cases are replete with incidents of interference by labor organizations with the rights of individual employees. Few of them apparently become the subject of proceedings in local courts but come to light in Board hearings, e. g. *NLRB v. Dadaurian* (138 F. (2d) 891); *NLRB v. Dahlstrom Metallic Door* (112 F. (2d) 756). Moreover, many of these instances of coercion, particularly of economic coercion, are not crimes, or misdemeanors under State law. Yet these practices are equally effective in intim-

idating employees and thus depriving them of that freedom of choice, the act was intended to insure.

The remainder of section 8 (b) (1) forbids labor organizations from interfering with an employer in the selection of his representatives for the purpose of collective bargaining or the adjustment of grievances. This would mean that labor organizations could no longer strike against an individual employer in order to force him to bargain through an employer's association. It would also bar strikes by a union to enforce a demand that an employer fire a personnel director or a foreman regarded as obnoxious.

Section 8 (b) (2): This subsection would forbid a union from attempting to enforce a closed shop agreement illegally by causing an employer to discharge a man who had tendered his dues and initiation fees.

Section 8 (b) (3): This amendment requires mutuality in collective bargaining. There have been a number of strikes in recent years which have arisen because of unions making a demand and refusing to confer or negotiate about it unless it was granted forthwith. While the Board has held that a refusal to bargain on the part of a labor union is a defense against a refusal to bargain on the part of employees, the present act gives employers no effective remedies in these situations. The proposed legislation would cure this defect in existing law by requiring employee representatives to bargain. Another amendment to this section defines the term "bargain collectively" and makes it clear that the duty to bargain does not require either party to agree to a particular demand or to make a concession (8 (d)). It should be noted that the word "concession" was used rather than "counterproposal" to meet an objection raised by the Chairman of the Labor Board to a similar provision in another bill.

Section 8 (b) (4): This would make it an unfair labor practice for a national or international organization to take away discretion from the certified bargaining representative as to the terms and conditions which should be inserted in collective-bargaining agreements. It will be recalled that the term "representative" has been defined to encourage bargaining by locals.

Section 8 (c): Another amendment to this section would insure both to employers and labor organizations full freedom to express their views to employees on labor matters if they refrain from threats of violence or intimation of economic reprisals. The Supreme Court in *Thomas v. Collins* (323 U. S. 516), has held that it is contrary to the Constitution to restrict freedom of speech on either side in labor controversies, thereby approving the doctrine of the *American Tube Bending* case (134 F. (2d) 993). The Board, however, continued to hold speeches by employers to be unfair labor practices if the employer was found guilty of some other unfair labor practice, or if the speech was made in the plant on working time (*Monumental Life Insurance* (69 N. L. R. B. 247)); *Re: Clark Brothers* (70 N. L. R. B. No. 60). It is the purpose of this amendment to prevent restrictive decisions of this character being made in the future.

Section 9 (a): The revisions of section 9 relating to representation cases make a number of important changes in existing law. An amendment contained in the revised proviso for section 9 (a) clarifies the right of individual employees or groups of employees to present grievances. The Board has not given full effect to this right as defined in the present statute since it has adopted a doctrine that if there is a bargaining representative he must be consulted at every stage of the grievance procedure, even though the individual employee might prefer to exercise his right to confer with his employer alone. The current Board practice received some support from the courts in the *Hughes Tool* case (147 F. (2d) 756), a decision which seems inconsistent with another circuit court's reversal of the Board in *NLRB v. North American Aviation Company* (136 F. (2d) 898). The revised language would make it clear that the employee's right to present grievances exists independently of the rights of the bargaining representative, unless the adjustment is contrary to the terms of the collective-bargaining agreement then in effect.

Section 9 (b): The present act furnishes almost no guides to the Board in determining the kind of unit appropriate for the purposes of collective bargaining. These amendments propose to limit the Board's discretion in three respects:

(1) By insisting upon separate tabulations in every plant where the proposed unit is of a multiple-plant character. In *NLRB v. Pittsburgh Plate Glass* (313 U. S. 146), the Board lumped four widely separated factories together in one unit. The practical result was that a heavy majority for a particular union in three of the plants was computed to blanket the other plant into the unit even though a majority of the workers there would have preferred to have a different bargaining representative. While this case has not been consistently followed

by the Board in recent years, it was thought advisable to insert specific language in the statute which would prevent the recurrence of such holdings. The amendment would also prohibit industry-wide bargaining unless the employees in each of the component plants or mines selected the same bargaining representative.

(2) Another amendment permits professional employees whose interests are usually quite different from either production workers or office and clerical workers, an opportunity to vote in a bargaining unit of their own. When the Wagner Act was originally passed, a specific reference to craft units in section 9 (b) was adopted because Congress recognized the peculiar problems of the skilled craftsmen and felt that they should not be assimilated into large mass production units. This provision would carry out the same policy with respect to such professional employees as engineers, scientists, lawyers, physicians, nurses, and other persons performing highly technical duties.

(3) Another limitation will make it necessary in the future for the Board to afford members of a genuine craft an opportunity to vote in a separate unit to ascertain whether or not they wish to have a bargaining representative of their own. Generally speaking, in plants which have not been organized, the Board has followed this policy as a result of a decision entitled *Globe Machine and Stamping Company* (3 N. L. R. B. 294). Where a company has already been organized, however, the Board does not apply this doctrine unless it is consistent with prior bargaining history. In other words, since the decision in the *American Can case* (13 N. L. R. B. 1252), where the Board refused to permit craft units to be "carved out" from a broader bargaining unit already established, the Board has virtually compelled craftsmen to remain parts of a comprehensive plant unit. If this amendment is adopted it will overrule the *American Can* decision.

Section 9 (c) (1): The proposals for amending section 9 (c) set forth in much greater detail than exists in the present statute the procedure to be followed by the Board in representation cases. The Board does have written regulations containing much of this procedure, and the passage of these amendments would make it necessary to revise existing regulations in the following respects: (1) The present regulations do not permit a petition to be filed by employees who wish to be rid of their present bargaining representative. Under current practice all they can do is to file a petition designating another union. This amendment rectifies that inequity by permitting employees to file petitions for elections irrespective of whether or not they wish to have a collective-bargaining representative.

Present regulations of the National Labor Relations Board (the practice among the State boards is generally to the contrary) do not permit a petition to be filed by an employer unless two or more labor organizations make conflicting claims for representation. Although it has been suggested several times that this limitation upon an employer's right to petition makes it impossible for him to secure an election where a minority group threatens to strike to secure recognition as the exclusive bargaining representative, the present practice has been defended on the ground that if an employer could petition at any time he could effectually frustrate a union's organizing drive by asking for an election on the first day that a union organizer distributed leaflets at his plant. Although this bill gives an employer a right to file a petition, it recognizes the force of this argument and does not permit the filing of such a petition until the union has actually claimed a majority and demanded bargaining rights.

Neither of these amendments affects the present Board's rules or decisions with respect to dismissal of petitions by reason of an inadequate showing of representation or the existence of an outstanding collective agreement as a bar to an election. In other words, the Board could still dismiss an employee or an employer petition if a valid contract were still in effect.

One further change in current Board practice is required by this subsection. Regional office personnel now sit as hearing officers in representation cases and make a comprehensive report and recommendation to the Board at the close of such hearing. By the amendment, such hearing officer's duties are confined to presiding at the hearing.

Section 9 (c) (2): Under current policy, a union which has been disestablished is not permitted to appear on a ballot even though an employer has ceased to continue the illegal acts with respect to such organization specified in section 8 (2). The Board's policy toward affiliated organizations, however, has been more lenient. Such organizations are permitted to file petitions for an election 60 days after an employer has complied with an order of the Board even though

the case revealed illegal assistance to the union. Such improper assistance frequently takes the form of participation of supervisory employees in the affairs of a local union, the making of a collusive agreement, or the receiving of financial support from the employer. Any such activities as these, occurring with respect to an independent union, have been taken as conclusive evidence of company domination under section 8 (2).

In the recent Western Electric hearing, the Board quite frankly revealed that its policies with respect to independent unions were different than those with respect to affiliated unions. This amendment would prevent such disparity of treatment in election cases.

Section 9 (c) (3): Another amendment prevents the Board from holding elections more often than once a year in any given bargaining unit unless the results of the first election are inconclusive by reason of neither of the competing unions having a majority. At present, if the union loses, it may secure another election within a few weeks, but if it wins its majority cannot be challenged for a year.

Moreover, if there are two or more unions in the election, the employees in the run-off election do not have an opportunity to cast a negative vote in the run-off, unless the "neither" choice received a plurality of the votes cast in the first election. An amendment doing away with this inequity in the regulations requires the two highest choices to be placed upon the run-off ballot.

Section 9 (c) 4: This amendment makes it clear that consent elections in the noncontested cases would still be conducted in the field.

Section 9 (e) (p. 22): This subsection, together with section 9 (f) spells out the mechanics of the vote to authorize a compulsory membership agreement discussed under section 8 (a) (3) above. It should be noted that provision is made for an opportunity to the employees to rescind the authority previously given, and that the number of referenda, either to authorize or rescind such authority, is limited to one per year.

Section 10 (a): The proviso which has been added to this subsection permits the national Board to allow State labor relations boards to take final jurisdiction of cases in borderline industries (i. e., borderline insofar as interstate commerce is concerned), provided the State statute conforms to national policy.

Section 10 (b): The principal substantive change in this section is a provision for a 6-month period of limitations upon the filing of charges. The Board itself by adopting a doctrine of laches has to some extent discouraged dilatory filing of charges, and a rider to the current appropriations bill (which if this amendment was adopted would no longer be necessary) contains a 3-month period of limitations with respect to certain kinds of unfair labor practices.

Section 10 (c): This subsection is amended by the proviso in two respects. First, back pay may be required of either the employer or the labor organization, depending upon which is responsible for the discrimination suffered by the employee. Second, the Board is required to apply the same policy to both affiliated and independent labor organizations in framing its remedies for unfair labor practices.

Independent unions have genuine reason for complaint as a result of a policy which has been in effect in the Board for several years. Whenever an investigation reveals that an independent organization has been subsidized or dominated to any extent by an employer it will proceed under section 8 (2) with a view of issuing an order of disestablishment. Where an employer has been guilty of similar acts, however, with respect to an affiliated union, the current policy is to issue a complaint under subsection 8 (1). Then if the "cease and desist" order is complied with, the affiliated union is eligible to file a petition for certification after a period of 60 days. Adoption of this amendment would prevent such disparity of treatment.

Subsection (e) (pp. 27 and 28): These amendments make a Board order reversible if it is "contrary to the weight of the evidence." The Administrative Procedure Act makes the test "substantial evidence," but it is generally believed that this does not modify existing law.

Section 13 contains amendments defining the right to strike and makes it clear that certain strikes are not to be viewed as protected activity under the act. It imposes no penalty upon the strikers, however, but it does deny protection to recognition strikes, strikes to remedy unfair labor practices, and strikes for illegal objectives. The original section of the act was ill-conceived because it permitted labor organizations, which were in strong position, to remedy unfair labor practices by striking rather than by resorting to the peaceful procedures of the act. In fact the Board by developing the novel doctrine of "unfair labor



practice" strikes gave virtual immunity to persons resorting to economic force rather than to the provisions of the very statute enacted for their benefit.

The amendments numbered (1) and (2) emphasize that employees have a duty, where a remedy is provided by law, to invoke the procedures of the act. If they resort to self-help and their employer disciplines them, under these subsections, they may no longer go to the Board to demand reinstatement.

Subsection 13 (3) deprives the Board of jurisdiction to grant reinstatement or other relief to employees who strike for illegal objectives. The Board itself adopted this rule in the *American News case* (55 NLRB 1302), but until the most recent *Thompson Products* decision, this doctrine has not been consistently followed.

It should be noted that the Supreme Court has construed the present act as not conferring protection upon employees who strike in breach of contract, *NLRB v. Sands Manufacturing Company* (306 U. S. 332); or in breach of some other Federal law, *Southern Steamship Company v. NLRB* (316 U. S. 31); or who engage in illegal acts while on strike, *Fansteel Metallurgical Corp. v. NLRB* (306 U. S. 240). This bill is not intended to change in any respect existing law as construed in these decisions.

Section 14: This is a new section which makes it clear that the amendments to the act do not prohibit supervisors from joining unions, but that it is contrary to national policy to compel employers who are subject to the national board to treat supervisors as employees for the purpose of collective bargaining.

## TITLE II

### FEDERAL MEDIATION SERVICE

This title contemplates not only a reorganization of the existing Federal machinery for the mediation and conciliation of labor disputes but also prescribes a procedure for the guidance of the Service and the parties to disputes. The theory of this section, however, is that it is not desirable in an economy such as ours for the Federal Government to play a partisan role with respect to disputes between management and labor and that compulsory arbitration is not an effective or desirable method to be employed. The major provisions of this title may be summarized as follows:

Section 201: This section creates an independent agency to be known as the Federal Mediation Service. It is to be operated by a single official, called the Director, to be appointed by the President with the advice and consent of the Senate. The section transfers to him the duties now imposed upon the Secretary of Labor under section (a) of the organic act creating the Labor Department. The personnel and records of the present Conciliation Service of the Department of Labor are also transferred to the new Mediation Service.

Section 202: This section describes the functions of the Mediation Service and emphasizes the duty of the Service to intervene only where a dispute threatens to cause a substantial interruption of interstate commerce. It provides that if the parties cannot be brought to direct settlement by conciliation or mediation, the Service may request the parties to submit to voluntary arbitration. In such an event, the Service may assist in the arbitration proceedings by helping to formulate the submission, selecting the arbitrator, and paying the cost of the proceedings, provided this does not exceed \$500 in any single case.

Section 203 states that it is the duty of employers and employees to exert a reasonable effort to settle their differences by collective bargaining, and if this fails to utilize the assistance of the Mediation Service. The section imposes no waiting period, however, upon either employers or employees except in cases where a dispute is likely to arise at the expiration of a collective agreement. In order to avert possibility of such disputes resulting in lock-outs or strikes this section requires a party wishing to terminate or modify a collective agreement to give 60 days' notice prior to the expiration date. Failure to give such notice on time means that the parties are required to maintain the status quo for 60 days after the date such a notice is eventually given or 60 days from the expiration date of the contract. Failure to comply with this procedure is made an unfair labor practice under the National Labor Relations Act.

Section 204 directs the Bureau of Labor Statistics to keep a file of collective agreements and arbitration awards. It permits such files to be open for public inspection with the exception of such documents as the Secretary of Labor may deem confidential, having obtained them under a pledge of confidence.

Section 205 contains a saving clause exempting the procedures set forth in the Railway Labor Act from the provisions of this title.

### TITLE III

#### MONOPOLISTIC PRACTICES OF LABOR ORGANIZATIONS, LIABILITY OF LABOR ORGANIZATIONS, AND MISCELLANEOUS PROVISIONS

Section 301 is a revision of a provision which appeared in last year's Case bill placing certain restrictions upon union welfare funds. This section does not forbid such funds entirely but it does require that they be administered as genuine trust funds with joint control in the administration thereof by management as well as by the labor organization. A clarifying proviso in section 301 (c) (4) permits the check-off of union dues provided a voluntary written assignment is obtained from the employee on whose account a deduction is made.

Section 302 makes unlawful certain kinds of secondary boycotts, jurisdictional strikes, sympathetic strikes, and concerted activity designed to bring about a breach of contract. One of the purposes of this section is to make it unlawful to compel employers to disregard certifications of the National Labor Relations Board which designate some rival labor organization as the representative of the employees or which has the effect of assigning particular work tasks to some other union.

Persons aggrieved by violations of this section are given access to the Federal courts, either for injunctive relief or for treble damages. To the extent that violations of this section were also violations of the antitrust laws, prior to the enactment of sections 6 and 20 of the Clayton Act and the Norris-LaGuardia Act, the provisions of the Sherman Act are made applicable to them, for the provisions in subsection (d) deprive violators of the immunities conferred by the subsequent enactments.

Section 303 gives the Federal District courts jurisdiction to entertain suits by and against labor organizations for breaches of collective-bargaining contracts. Although almost half the States permit unions to sue and be sued in their common name there are a number of jurisdictions which still cling to the common-law rule that an unincorporated society may not be sued as such under this section. The uniform rule in the Federal district courts will be to the contrary and any judgments obtained shall be enforceable against the union treasury rather than against individual members or their assets.

Section 304 requires labor organizations to file certain information for the Secretary of Labor in order to be eligible for certification under the National Labor Relations Act. The information required includes the filing of copies of its constitution and bylaws, the scale of its dues and initiation fees, and an account of its receipts and disbursements.

### TITLE IV

#### CREATION OF JOINT COMMITTEE TO STUDY AND REPORT ON BASIC PROBLEMS AFFECTING FRIENDLY LABOR RELATIONS AND PRODUCTIVITY

Section 401 establishes a joint congressional committee. It will consist of seven Members of the Senate to be appointed by the President pro tempore and seven Members of the House to be appointed by the Speaker.

Section 402 directs this committee to conduct a survey of the entire field of labor-management relations with particular emphasis upon the six subjects listed.

Section 403 authorizes the committee to appoint an advisory body consisting of labor and management representatives.

Section 404 directs the joint committee to file its report and recommendations not later than February 15, 1948.

Section 405 authorizes the joint committee to hire technical and clerical personnel and to request a detail of personnel from Federal and State agencies.

Section 406 vests the committee with subpoena power and authority to conduct its hearings either during our congressional sessions or while the Eightieth Congress is in recess.

Section 408 authorizes the special appropriation of \$150,000 for the joint committee.

## TITLE V

## NATIONAL EMERGENCIES

This title is intended to deal only with stoppages of such magnitude that substantially an entire industry is affected.

Section 501 authorizes the Attorney General, whenever he deems a threatened or actual strike or lock-out of such magnitude that it imperils the national health or safety, to obtain injunctive relief in the Federal district courts (subsequent to the submission of this section to the committee an amendment was tentatively adopted which would authorize the Attorney General to resort to judicial relief only after he has appointed a special board of inquiry and received and considered its report). This section confers jurisdiction on the courts to enjoin any acts which threaten to imperil the national health or safety and makes such orders reviewable in the circuit courts of appeals and in the Supreme Court.

Section 502 requires the parties to the dispute giving rise to such an order to exert every effort to adjust their differences with the assistance of the Federal Mediation Service.

Section 503 provides that in the event the dispute has not been settled 60 days after the temporary restraining order or injunction is issued that a report shall be made of the respective positions of the parties to the dispute and the efforts made for settlement. Such report is to be made public. Within the next 15 days the National Labor Relations Board is to take a secret ballot to ascertain if the employees of the employer involved wish to accept the last offer made by their employer.

Section 504 provides for the injunction being discharged after the results of the strike ballot have been certified or sooner if a settlement is reached.

(Under another amendment tentatively adopted by the committee, if a stoppage is still imminent after the injunction is resolved the Attorney General is then directed to file a report of the proceedings with the President who is then to lay the matter before Congress for appropriate action.)

## TITLE VI

## DEFINITIONS

Section 601 defines certain terms which are used generally throughout the bill.

Section 602 contains a saving clause making it clear that no provision of the act is to be construed as compelling an employee to render forced labor without his consent or to work under abnormally hazardous conditions.

Section 603 contains a conventional separability provision.

Section 604 gives the act a short title, namely, "The Federal Relations Act of 1947."

## TAFT STATEMENT ON LABOR LEGISLATION

The main purpose of the tentative committee print is to restore justice in relations between employers and employees, and in relations between unions and individual employees. The secondary purposes are to give unions a degree of responsibility equal to the power which they have acquired; and to prohibit irresponsible and unfair practices on the part of unions, including secondary boycotts, jurisdictional strikes, and strikes in violation of contracts.

Through the restoration of justice and responsibility, and the improvement of Federal mediation procedure, it is hoped to bring about a far greater degree of labor peace.

The bill is not a punitive one. Its purposes are accomplished for the most part by amending those existing laws which have given privileges to labor unions indiscriminately and protected them against all consequences of union action, no matter how unfair.

More specifically, the bill provides:

1. Unions are made responsible to employers and third parties for their deliberate actions, just as employers are now responsible. One section makes unions suable as legal entities in the Federal courts. The Wagner Act amendments require unions to engage in collective bargaining and not to interfere with, restrain, or coerce other employees, setting up certain unfair labor practices on the part of unions corresponding with those made illegal for employers. Secondary boycotts, jurisdictional strikes, and strikes in violation of collective

bargaining agreements are specifically outlawed and subject unions to suits for damages and injunction.

2. Unions are made responsible to their members:

(a) By being required to make regular financial reports.

(b) While the union shop is not forbidden, abuses of it are forbidden. If any employee is willing to pay union dues, no employer can dismiss him simply because the union refuses to admit him, or expels him from the union. A union shop is illegal unless at least half of the employees vote for it.

(c) Other provisions limit the abuses of the power to bargain on a Nation-wide scale. The National Labor Relations Board is required to certify only unions made up of employees of one employer, or of several employers in one metropolitan district; and while these unions may, of course, cooperate with the international, they cannot be coerced to sign or not to sign particular collective-bargaining agreements with their own employer.

3. Various injustices in the administration of the Wagner Act are to be corrected. More separation is required between the judicial and prosecuting functions of the Commission. More power of court review is given over its decisions. Craft unions are protected and independent unions given the same rights as unions affiliated with the A. F. of L. and the CIO. Election to determine collective-bargaining agents are regulated by statute and may be requested by employees.

Foremen are excluded from the definition of employees.

4. Federal mediation machinery is improved and strengthened.

5. A joint committee of Congress is established to make a continuing study of the fundamental causes of the difficulties between employers and employees of annual-wage plans, incentive plans, profit-sharing plans, and internal management of union and other questions.

6. Describe emergency section.

Senator DONNELL. I want to tell you this—I do not know whether you ever knew this or that I ever told you this, but I did not actually read this memorandum and there was a considerable period of time between its receipt and the time I turned it over to Mr. Shroyer, I might say for the record, although I do not know whether this fully explains the delay, I do not recall. I was, as chairman of this committee, certainly the then chairman, well remember, very busily occupied with and in connection with the portal-to-portal bill in connection with which I was the chairman of the subcommittee of the Senate Committee on the Judiciary. That bill passed the Senate, March 21, 1947. The conference report was approved by the Senate, May 1, 1947, and the memorandum I turned over, as Mr. Shroyer stated, to him, and he has made his statement as to what he found there with respect to your recommendations and that analysis.

Mr. DENHAM. I am very grateful to find there is a paralleling of thoughts of great minds, sir. [Laughter.]

Senator DONNELL. Mr. Denham, when you say you were very much gratified to find the major portions of those suggestions incorporated in the Taft-Hartley Act, you, I take it, likewise made a comparison of the suggestions which you had made with the Taft-Hartley Act?

Mr. DENHAM. Yes, sir.

Senator DONNELL. You found what you indicate here.

I will ask Mr. Shroyer, if I may, whether or not in the preparation of the bill which went to the Senate floor on April 17, in the preparation of that, did you make use of the Denham memorandum or was the bill prepared on or about April 7, 1947, and prior thereto, so that you did not make use of the Denham memorandum in the preparation of the bill. Which of those is the fact?

Mr. SHROYER. Well, as I remember it, Senator, at that time, the time that you showed me the Denham analysis, the suggested—

Senator DONNELL. That would be about April 10.

Mr. SHROYER. Yes.

Senator DONNELL. Yes.

Mr. SHROYER. The committee print was substantially in its final form.

Senator DONNELL. Yes.

Mr. SHROYER. We did have a couple of more executive sessions in which little points of disagreement came out, but I do not remember your mentioning the Denham suggestions or bringing out any of them at that time.

Senator DONNELL. Yes. Did you send back to me one of those analyses, such as the one I have offered into the record, with markings on it indicating the comparison between it and the Denham memorandum?

Mr. SHROYER. Yes, returned both the Denham memorandum and the analysis.

Senator DONNELL. Yes, sir.

All right. Mr. Denham, have you had occasion to study the laws of the various 48 states of the Union to ascertain whether or not there are provisions in those laws or any of them, which are substantially the same as some of the provisions of the Taft-Hartley Act?

Mr. DENHAM. Yes, sir. Under the delegation of authority agreement which was entered into between the board and the General Counsel on the 21st of August, 1947, the matter of negotiating agreements with the various States under the provisions of section 10 (a) was turned over to the General Counsel.

We went into it very much at length to find out where there were paralleling laws.

Senator DONNELL. What was it you went over to find out. I did not understand that.

Mr. DENHAM. We went over the laws of the various States to find out where there were paralleling laws which would permit a cession of jurisdiction under the provisions of 10 (a).

Senator DONNELL. Yes, sir.

Mr. DENHAM. I may say that we found very few, if any, of them.

Then, subsequently I have had other much more detailed studies made of all of the laws of the various States, and I find that there are some 46 States which have legislation, which have legislated with reference to matters that would fall into what might be said to be the area of regulation of labor relations or trade unions in one form or another; analysis that I had made which were set up with the idea of giving me a comparison of the statutory provisions of the various States with the provisions of the National Labor Relations Act, as amended, dealing with the same subject or a parallel subject; and I have before me a rather voluminous set of these analyses of the 46 States that are involved here.

They are rather interesting, incidentally, I might say.

Senator DONNELL. Would you be kind enough to tell us, generally speaking, about the analyses as you found them, and then I am going to ask you to give us a few illustrations, and then follow that up by asking these be incorporated into the record.

Mr. DENHAM. Well, this pile that you have comes along in alphabetical order, and the first one is Alabama.

These apparently are references which are made to the Alabama Code of 1940, and I may say that these analyses were prepared by seven or eight different people, and they are not all in exactly the same form, and no attempt has been made to polish them because they are for my information.

Title 26 of section 376 of the laws of Alabama, code of Alabama, 1940, on the subject of policy, for instance, sets forth that it is the policy of the State in the exercise of its police power and in the public interest to promote voluntary and peaceful settlement in the adjustment of labor disputes, and to regulate the activity and affairs of labor organizations, their officers and agents, and other representatives.

Well, we are all familiar with the declared policy of the National Labor Relations Act.

Title 26, section 382 requires that every labor organization functioning in the State must file a copy of the constitution and bylaws of both the local and national union, and any future changes therein, with the State Department of Labor.

Unions with more than 25 members must execute and file an annual written report with each member and the Department of Labor showing its name, location, names and addresses of its officers and agents and their salary, date of election, number of members, financial statement, statement of property owned, and money on hand.

Well, we are all familiar with the provision of section 9 (f) and (g) of the National Labor Relations Act.

Senator DONNELL. Of the National Labor Relations Act, what we call the Taft-Hartley Act.

Mr. DENHAM. Yes; Taft-Hartley.

Section 390 of the same title, unions may not collect any fee as a work permit or as a privilege to work. This does not prevent the collection of initiation fees or dues.

Those of us who are familiar with the Taft-Hartley Act, and I assume that all of us are, are familiar with the requirements of section 8 (b) (5) of this act.

The next title states that every person, except supervisory and professional employees, is free to join or refrain from joining labor organizations.

In the exercise of such freedom they should be free from interference through force, coercion, intimidation, or by threats of injury to family.

By the way, there is no separate labor relations act in Alabama, which is the NLRA of that State.

These are simply parts of the code. Supervisory and professional employees, with reference to them, it says that it is unlawful for any executive, administrative, professional, or supervisory employee to be a member in or to be accepted for membership in any labor organization which permits membership to employees other than those in such capacities as supervisor, and so forth, or which is affiliated with such a labor organization.

I could go on down. There are, for instance, provisions—there is a prohibition against check-offs. There is a provision here in reference to strikes. Title 355 states that strikes must be authorized by a majority of regular employees, expressed by secret written ballot. If a strike is so authorized, the union must file a report thereof with

the state department of labor within 24 hours. Penalties are imposed for failure to report or failure to file.

Also it makes unlawful, force or threat of force to secure or prevent attendance at meetings of strike-voting employees or to influence the vote by intimidation or threat or offering a reward or threatening loss of employment or membership in a union, and makes a violation thereof a misdemeanor.

There are some of the titles that have been held unconstitutional; I will not refer to them.

The printing or circulating of notices of boycotts, boycotts cards, stickers, dodgers, or unfair statements declaring that a boycott or ban exists is forbidden, and is made a misdemeanor.

That is, I take that, just as the first one on the list here, sir, and all through the States you will find a similar analysis of all of the various regulatory statutes.

Senator DONNELL. Mr. Denham, pardon me just a moment, going back to our previous subject, the young lady from my office has just brought to me some interesting documents which I hereby offer into the record. I offer those, that is, if I have your permisison to do so.

Mr. DENHAM. Very well, sir.

Senator DONNELL. One is your letter dated February 21, 1947, to me which, by the very fact that you called me by my first name and signed "Bob," indicates our friendship, which has existed, as I have stated, for many years, and then my response to you of February 25, and a memorandum dated March 26, 1947, from Mr. Shroyer and Mr. Reilly. Is that Mr. Gerard Reilly, Mr. Shroyer, who collaborated with you in the memorandum?

Mr. SHROYER. Yes.

Senator DONNELL. This is with respect to "Comments on Mr. Denham's views on S. 360."

Mr. Chairman, I offer for the record this sheaf of correspondence to which I referred.

Also, if you do not mind, Mr. Denham, so that the file may be complete, a little note from yourself to Miss White who, I judge, is in your office, saying and expressing the desire that these papers get to me. I think that is the substance of it.

Mr. DENHAM. Very well.

Senator MURRAY. They will be received.

(The documents referred to follow:)

NATIONAL LABOR RELATIONS BOARD,  
*Washington 25, D. C., February 21, 1947.*

HON. FORREST C. DONNELL,

*United States Senate Office Building, Washington, D. C.*

DEAR FORREST: This is a much longer document than either you or I thought it would turn out to be. Circumstances over which I had no control have kept me from getting any comments to you earlier, notwithstanding Chairman Herzog promptly granted me a clearance on so doing, and when too much time had passed to meet the main objective, it seemed to me better to wait a little longer and then confine myself to commenting on legislation I felt certain would be proposed.

I am giving Mr. Herzog a copy of this for his information but I can hardly hope that he will agree with all my comments. Accordingly, this must be taken as my personal views, coming from a fairly broad background of general experience, as you know, as well as an intimate association with the NLRB while it has been in the process of growing up over the past 9 years.

These comments are largely directed to Senator Ball's bill, S. 360. It contains much of merit but also much with which I must violently disagree as neither

practical nor workable to the end the Wagner Act is designed to serve. I have been advised that Gerard Reilly, our recently resigned Board member, for whose views I have outstanding respect, had much to do with supplying material for this bill, but if the things I am criticizing here are his views—then we will simply have to disagree on them.

Few of us are willing to subscribe to antilabor legislation, but approach the present situation with the premise that labor is no more entitled to special privilege than is industry. Each must fill its place concordantly with the other. Each must submit to equalizing restrictions and assume its full share of responsibility.

In the first instance, the Wagner Act was not designed to promote the welfare of labor unions. Under it, the union exists as a medium or expressing the wishes, complaints, demands, and objectives of the employees who have chosen it as their representative. Because the union exists only as a freely chosen representative, it is entitled to no more control of its individual or collective principals than any other agent has. In practice, however, the unions too often have assumed that the employees exist for their benefit and sometimes accord them scant privileges, notwithstanding they all adopt the formulae of "democratic practices." This is exemplified in the "closed shop" or "union security" cases, preemptory strike calls, and the mass picket lines. The jurisdictional strike is perhaps the most flagrant of them all.

The foregoing are well recognized sore spots. They should be corrected, but there are others, not so obvious to the lay public, that are equally irritating: The "foreman" question is one. The status of the "economic" striker whose job has been filled by a replacement, is another. The use of libelous propaganda is organizing campaigns and the failure of the union to bargain in good faith, are among others.

In the past the National Labor Relations Board has been generously damned for its "one-sided" administration of the act. In some instances, it is my feeling that that criticism has been justified, especially in the earlier days of the act, but in its more recent years, strong efforts have been made, with considerable success, to correct the early errors. As Chairman Herzog remarked to me not long ago when we were discussing my collaboration on this subject, "Maybe the thing has been 15 percent bad—but the 85 percent that has been good is something that should not be overlooked." On the basis of present operations, I'm inclined to think it is much less than 15 percent bad now.

However, to get to concrete suggestions—and I may add that my suggestions are considered ones made in the light of a nonpartisan and judicial observation that long service as a trial examiner have forced on me. Fortunately, however, I never have had a blind prolabor leaning. By training and environment, it should be quite the opposite.

In the first instance, I want to dwell briefly on the trial examiners, for they are the ones who must apply the first administration of the act as it applies to formal determinations concerning alleged violations and appropriate remedial action. In practice, they exercise every function of a trial judge and carry the same responsibilities. The record they make is the one on which every succeeding tribunal bases its consideration of the case. They are the sole judges of credibility of witnesses and they cast the first mold for corrective action in their recommended orders. Often these call for a dismissal of the case. More often, for a cease and desist order and affirmative action by an employer that may involve huge sums of money and the employment of large numbers of people. They determine in the first instance, the quality of labor disputes—whether they arise from unfair labor practices or are merely disputes with economic bases. This is highly important, for the status of strikers in an unfair labor practice strike is fully protected. That of strikers whose action is not bottomed on an unfair labor practice is precarious, for they have little protection except the right to stop striking and go back to their jobs, if still vacant, and none at all if the employer shall have filled their jobs with bona fide, permanent replacements. In the first case, replacements must be displaced if the strikers elect to abandon their strike and ask to be returned to their jobs. In the second, the replacements may not be disturbed by any order of the Board and the employer is entitled to refuse the returning striker whose job has been filled.

The Administrative Procedure Act has done much to relieve trial examiners in all the agencies of administrative influence on their decisions, but it has also left the examiners very much "up in the air" as to their status. Congressional intent as to them is not clear in the APA. I hope steps will be taken to make it so.



However, as to the National Labor Relations Act: In S. 360 (p. 2) it is proposed to amend sec. 2 (2) of the Wagner Act by substituting "as an agent of an employer," for the present language, "in the interest of an employer, directly or indirectly." At a quick glance, this might seem justified, but in this field, there are as many subtleties available for employers to choke off efforts of employees to organize that, if the law of agency were to be applied, a wide avenue would be provided for violating the stated purposes of the act with impunity. (*International Assn. of Machinists, etc. v. N. L. R. B.* (311 U. S. 72, 80)). The mind of the average working man works along lines that differ greatly from those followed by the businessman, the professional man, or even the "white collar worker." He is more a creature of emotions and his psychology seeks out for security. He can find threats to his security in most unexpected places. He is much more readily influenced by veiled—or open—threats to the security of his employment from the chamber of commerce—or from his immediate superior, no matter how low in the hierarchy of supervision that person may be, than most of us realize. We saw Southern California bar almost all labor organizations—except local company-dominated unions—for a long time through the activities of the Merchants and Manufacturers Association and its subsidiaries, Southern Californians, Inc., Neutral Thousands and Employees Advisory Service. These were not "agents" of the employers in the legal sense, but they were a menace to the purposes of NLRA until shut off by the Board in the *Sun Tent-Luebbert* case (151 F. 2d 483 (C. C. A. 9)) and (154 F. 2d 108 (C. C. A. 9)). In its decisions, on this subject, the Board has generally adhered to the same rule of reason in applying this provision. In many cases, it has dismissed complaints against chambers of commerce and other civic organizations as well as individuals who have engaged in antiunion activities wholly independent of the employer, but on the other hand, has enjoined unlawful conduct by the wife of the "boss." I do not think any case can be made out to justify this amendment, for the damage it might do would far outweigh any bad it might be intended to correct. A dispassionate examination of the record will show few, if any cases where the provision has been abused.

On page 3 of S. 360: Item (b) is a desirable amendment if there can be added, after the word "strike" in line 5, the following: "not arising from an unfair labor practice."

The reason for this is obvious. If the Wagner Act is to exist at all, employees are entitled to protection from unfair labor practices. Much as I would like to see them required to exhaust the remedy afforded by the act for the correction of the unfair labor practice, such practices often are such that the slow processes of the Board standing alone, aggravate rather than help. Discriminatory discharges, for instance, fall in this class. An habitual resort to such discharges while the Board is processing a case is a sure way of steering employees away from organization and the protection it affords. The right to strike is an inherent one. When the strike is in protest of misconduct of the employer, it and those who so protest are entitled to be protected. They should not be required to forfeit their jobs or abandon their strike in the manner proposed, until the unfair labor practices have been remedied; and by the same token should not be compelled to quietly endure unfair labor practices that may include exclusion from their jobs while the Board is disposing of their case, a process that always runs into months and sometimes years.

On the other hand, the economic strike properly should carry economic hazards, and the employer should not be barred from protecting himself against them. The Board has gone a long way to follow this thought first defined in the *Mackay Radio Corp.* case (304 U. S. 333), and recently reenunciated by the Board in its dismissal of the case against Times Publishing Co. at Tampa, Fla., decided about February 12, 1947.

In subparagraph (c), S. 360, page 3: This is intended to exempt employees—foremen, down to the lowest supervisory grades, guards, safety men, fire protection, and inspectors. I agree that each of these classes call for special treatment, but am unable to subscribe to the proposition of excluding them wholly from the right to collectively advance their own problems and welfare and be protected in so doing.

In the modern large mass production plant, each of these groups forms a substantial body of employees. In most instances, the foremen, except the top two layers or so, are too far removed from direct contact with management to have an influence on policy, but they control the destiny of those under them through their power to recommend. In some cases, I have heard personnel directors say they alone have the power to discharge and that the recommendation of super-

visors is nothing more than a request to personnel to make an investigation and to then act independently. Never is this more than partially true. A recommendation from the lowliest in supervision is almost always accorded attention and usually some form of action by his immediate superior.

But these men in supervision are really a part of production. Too often their loyalty to their jobs—or their pride in their jobs—make them victims of exploitation by management. It is not at all uncommon to find supervisors working long hours but receiving less pay than workmen under them working the same hours. If no rights are accorded them, they are helpless—but, also, they never should be divorced from management either in their own eyes or in the eyes of the rank and file workers.

The Board, whether right or wrong, has interpreted the act to classify foremen as "employees" and as such, free to choose any representative to speak for them, even the same one that speaks for the rank and file. I personally disagree with this interpretation, but am bound by it so long as it remains unchanged.

I suggest omitting the insertion proposed in lines 10 and 11 of page 3. The definition of the term "supervisor" may then be allowed to stand.

I would then amend the present section 8 so that its designation would read "Section 8-A." and add at the end of the present section 8, as "B," the following:

"Sec. 8-B. For the purposes of this act, all supervisors as defined in section 2 (12), shall be deemed to be employees for the limited purposes of collective bargaining, within their own respective general unit classifications, in respect to their own rates of pay, wages, hours of employment or other direct conditions of employment, but in all other respects, they shall be deemed to be representatives of management and as such, shall not be protected by any of the provisions of this act in the event they shall individually or collectively either engage in strikes or walk-outs other than in connection with disputes directly appertaining to their own rates of pay, wages, hours of employment or other direct conditions of employment; refuse to cross picket lines, other than their own legitimately established, or refuse to perform any duty assigned to them by their superiors in connection with maintaining the operation of the employer's business in time of strike or other emergency; provided, no labor organization representing a unit of supervisory personnel as heretofore described shall be certified by the Board, that is a part of, or affiliated with or in any manner, directly or indirectly associated with any labor organization to which any of the employees subordinate to such supervisors may be eligible, and should the Board, upon complaint duly made by any party, including the employer, find that it is or has become so associated as to defeat the limitations above set out, it shall be the duty of the Board, and after hearing thereon to forthwith revoke such certification and thereafter to refuse to consider a petition for certification by the same organization or an affiliate thereof, as representative of the same or substantially same unit."

I can see no objection to the amendments proposed in subparagraph (d) of S. 360 at line 5 of page 4 through line 8 of page 5.

The provision for dividing the functions of the Board between the Department of Justice and the present Board savors of the wisdom (?) of Solomon in dividing the child. It simply will not work. The administration of labor relations at the source involves much more than the trial and determination of adjudications. More than 90 percent of the matters which might develop into litigations are disposed of administratively in the regional offices. These dispositions must be coordinated to the same general policy that influences the final determination of the litigated cases. This proposed division would only create additional confusion with policy emanating from two independent and uncoordinated sources. If this is to be done, however, then the judicial side of the Board should be set up as a regular labor court with all the powers of the circuit court of appeals and with the present position of trial examiner converted into that of judge with all the powers of a district judge. I would wholly approve of such a change, for it would concentrate the decisions in one body and do away with the diversity of opinions now coming from 10 circuit courts of appeal, which make their decisions almost valueless as precedents until they have been passed upon and reconciled by the Supreme Court.

Section 4 of S. 360 at line 13, page 7: Since this is designed to conform to the division of functions provision, I think it should be eliminated except that the salaries of the Board properly could and should be increased, I would say, to \$15,000 instead of \$12,000.

I fear the provisions beginning at line 23, p. 7, if strictly followed, would not be workable. The reports of trial examiners are based on records often cover-

ing several thousand pages. It is a physical impossibility for a Board member to personally cover this. His legal assistants must do the spade work and report on both the report of the trial examiner and the record. Under the present system, the Board has a staff of legal assistants who do this. The Board having no opportunity to personally check the accuracy of the report of the reviewing legal assistant, is as much in danger of being misadvised by him as it would be if it accepted the findings of the trial examiner without question. The present practice is to discuss the points of view of both the reviewing legal assistant and the trial examiner—using one as a check against the other if there is a difference of opinion, and then to make its own decision. It has proved helpful and is a more healthy practice than the suggestion contained in S. 360.

Section 5 of S. 360 at line 4, page 8: In my opinion, proposed sections 8 (b), 8 (c) and 8 (d) are valuable additions to the act. The proposal to eliminate the closed-shop proviso in section 8 (3) of the act is desirable, but unless airtight restrictions on jurisdictional controversies are imposed, the absence of the proviso will only serve to make the employer's shop more of a battleground than ever with inevitable injury to his production program. Nothing is more devastating than to have two unions contesting among employees for representation. I have seen this so many times and have seen employers suffer so much from it, helpless to help themselves, that I would prefer to see the closed-shop provision retained, with all its inequities, than to see the door thrown open.

I have some ideas about modification of the proviso to section 8 (3), based on the fantastic results of some of the Board decisions, but a discussion of them would be too intricate to be justified here. My suggestion, growing out of this, however, would be to amend the proviso by adding at its end: "except that for a period covering the fourth quarter in each year, any such employee shall be free to form, join, or assist labor organizations other than the one then under such agreement with his employer, and shall not, directly or indirectly, be deprived, then or at a later date, of membership in such contracting labor organization, or disciplined by fine, suspension, or otherwise because of his activity in so doing, so long as he shall remain in financial good standing with the contracting organization. Failure of the contracting union to conform herewith shall be an unfair labor practice to be dealt with by the Board by such orders as will effectuate the purposes of this section."

This addition would bring the act in conformity with the present policy of the Board and, by affirmatively attaching responsibility to the union, also provides relief to an employer who finds himself threatened with reprisals from the contracting union, which now force him to violate the Board's present interpretation of the act by discharging an employee who has a desire to effect a change of the self-perpetuating bargaining agent. This proposal protects the closed shop but removes some of its curse.

Section 6 of S. 360, at line 5, page 9: The proviso (2) at line 7, page 10, is an obvious bow to the AFL. Unfortunately, there are few craft groups left in modern industry. As I write this, I am on a case in which United Construction Workers, affiliated with United Mine Workers, are seeking representation of the employees of a plant that makes women's and children's dresses and men's shorts. Sometime ago, on the Pacific coast, I heard a case in which the longshoremen's union claimed to represent the employees of a candy factory. An examination of the cases will reflect that such unions as machinists, electricians, and many others that claim to be "craft" organizations, often represent the whole gamut of production and maintenance employees in various plants. It is not a CIO-AFL controversy. With the exception of a handful of small unions that are truly craft organizations requiring long apprenticeships as conditions for full membership, almost all the unions go after full production and maintenance units, where they can get away with it. In most instances, employers prefer to deal with a single representative. It reduces jurisdictional quarrels and cuts down the hazards of work stoppages by key groups. I think the Board has a history of excellent handling of this problem. Both AFL and CIO have profited by it—and both have been disappointed when it has been applied against them. Where the circumstances have justified, the Board has departed from the strict rule—but experience in some of the States where the proposed rule has been in effect has been quite disturbing when the Board has had to take over some of the tangled situations that have arisen. Here, it would seem wise to "let good enough alone."

-Subsection (c) at line 12, page 10: The proposal at lines 21 to 25 on this page not only is an invitation to industrial turmoil but seems to be exactly contrary to

the provision at line 25, page 11, and lines 1 and 2 at page 12. If not intended to conflict, it should contain a limitation to conform, but if not intended to be subject to the 12 months' limitation, my comments will apply.

The Board follows a generally accepted rule that a certification should make for some stability in bargaining relations and has followed a flexible rule that such certifications should be good—and not subject to challenge except in most exceptional circumstances—for 1 year. Without the 1-year limitation, this amendment would serve to promote constant friction between rival unions almost from the date of certification. Petitions of withdrawal by inevitable dissidents would be the constant order of the day. They would inundate the investigation branch of the Board. It is an invitation to jurisdictional strife that is too dangerous to entertain. There are a few cases where employees have become dissatisfied with their union early in the period of certification—usually because of inability to promptly agree with the employer on a suitable contract—but they are rare as compared to those that go through their allotted period and often run on and on for years. Again, a study of the Board's treatment of this question will reflect an approach that calls for no change, and reflects a very sound discretion in its application.

Subsection 3, S. 360, line 14, page 11: If this means what I think it is intended to mean, I can see little objection to it. I take it, this is directed to the custom of disestablishing independent unions that have been assisted by an employer, while in the case of the assisted national or international unions the Board usually merely orders such a union to stand aside until it shall have been certified. I agree that such disparity should be corrected.

Lines 3 to 6, page 12, in re run-off elections: This, in my opinion, is a much-needed provision to correct a present unrealistic rule on this subject which, in effect, now deprives employees of the right to vote for "No union" in a run-off.

Line 23, page 13, as presently proposed, violates the purpose and intent of the Administrative Procedure Act and is an encroachment on the duties of trial examiners as contemplated there; it also can make for a deprivation of due process.

The present procedure of the Board is much more in conformity with good practice. Under Board practice and Administrative Procedure Act, the trial examiner is in full control of all proceedings from the time of his designation to the final issuance of his report. He issues subpoenas, grants continuances, and allows amendments on such terms as are appropriate. This means that where there is an amendment that enlarges or changes the issues he grants reasonable continuances if the respondent requests and such a continuance is indicated. An amendment of a complaint in material matter after the original issues have been litigated is simply unheard of unless the new or changed issues are also to be litigated. It is true this, in a limited way, follows the language of the present act, which has been applied as above set out, but in no event should it take away from the responsible examiner his control over the case or make possible a mis-carriage of justice for lack of due process or by depriving a party of his full day in court.

Subsection 3, line 3, page 15: This amendment is obviously designed to provide for review of the records "de novo" by the circuit court of appeals.

This is almost a case of locking the barn after the horse has been stolen. The administration of labor relations as provided in this act is not measurable by fixed rules. It is a highly complex mixture of law, human relations, sociology, economics, and psychology. We who do it and have done it for years, have become something of specialists, trained to give true meaning in the over-all picture, to things that well might have little or no weight with the reviewer who enjoys a broad and learned outlook but, perforce, must leave such specialization to others. In my opinion, such a change would do more harm than good. In the earlier days, I have quarreled with findings of the Board, especially where apparently credible testimony of apparently reputable witnesses has been disregarded in favor of not so apparently credible testimony from other sources, but this propensity has fairly well disappeared with noticeable improvement in the caliber and capacities of the trial examiners and the staff of reviewing legal assistants, to say nothing of the changes in personnel of the Board. With the effectiveness of the Administrative Procedures Act coming on June 11 next, and the high requirements civil service is making for trial examiners, as well as the insured independence of those officials, the last vestige of this criticism should disappear.

The provision as found in NLRA is characteristic of the law governing most, if not all of the administrative agencies exercising quasi judicial functions, and

especially is it necessary with this Board—whose work involves “not only features that were unknown at common law, but that often are repugnant to it” (Judge Simon in *NLRB v. Colton* (105 F.2d 179)). These matters of analysis and evaluation have truer values in the hands of the specialists than they possibly can have elsewhere. Whatever there might have been to criticize has long since largely disappeared. With the other proposed changes that will enlarge the scope of the Board's operations to both sides of the labor-management situation, to now plan a further review “de novo” in the circuit court of appeals merely adds addition burden on those bodies and profits the public nothing. If this is to be done, then why not have the hearings before the district judges in the first instance and save much time and money for the Government and the litigating public.

In present practice, however, it will be found that cases are decided on the weight of the evidence. The complaint, if there is any directed to current decisions, arises from the fact that factors not familiar to the layman must be used in evaluating the evidence, but that is not the fault of the Board—it is something inherent in the subject matter that is the Board's jurisdiction, and, as I have said before, is treated with utmost respect by the Board that now exists.

I have the impression, going back to the old Smith committee days, that many of these proposed amendments are prompted by recollections of old sore spots that time, experience, and changes in personnel have already healed. Those that are indicated, I have pointed out, but the others should be subjected to minute scrutiny in the light of current practices and decisions before they are adopted. They can be most dangerous, I am afraid.

Page 18: Following section (3) at line 3-4, insert “or (4) in the course of which picket lines shall be so conducted as to physically interfere or threaten to interfere with free entrance to and egress from the place of business of the employer by any person seeking to enter or leave the premises;

I hope this may shed some light on a problem that is immediately before you—and if you want to talk about any points, please let me know.

I have purposely omitted comment on the secondary boycott, liberalization of Norris-La Guardia Act and some of the other legislation, much of which seems to be indicated. The reason—I simply have not had an opportunity to study the proposals, but I'll be glad to do so if you think that it might be helpful. In many places above, I have referred to decisions of the Board or to lines of decisions, without citing them. That is sheer laziness on my part, but if you want that documentation, I'll be glad to supply it. It might be valuable if you should decide that the lines I suggest are the right ones and that support, other than argument, is needed.

Kindest regards.

(Signed) BOB.  
R. N. DENHAM.

FEBRUARY 25, 1947.

MR. ROBERT N. DENHAM,  
207 West Bradley Lane, Chevy Chase, Md.

DEAR BOB: Your kindness in writing me so fully under date of February 21 is greatly appreciated. I want you to know of my gratitude for your taking so much time and effort for giving me the information and views therein contained.

With cordial best wishes and regards, I am  
Sincerely your friend,

UNITED STATES SENATE,  
COMMITTEE ON LABOR AND PUBLIC WELFARE,  
March 26, 1947.

Memorandum to Senator Donnell  
From: Mr. Shroyer and Mr. Reilly.  
In re: Comments on Mr. Denham's views on S. 360. (Page numbers refer to Mr. Denham's memo.)

We have looked over Mr. Denham's memo and were very much interested in his views, as he is one of the most experienced and fairest of the trial examiners on the present staff of the National Labor Relations Board.

Many of his comments are sound and we feel that some of his suggestions should be adopted. The following memorandum summarizes the points raised by Mr.

Denham in which we are in disagreement or in which we feel that his criticism of S. 360 was based upon an erroneous interpretation of the language of the bill.

Page 4: Mr. Denham expresses some doubt as to the desirability of the amendment in S. 360 striking out the words "acting in the interest of an employer" and substituting in lieu thereof "as an agent of an employer."

This is a relatively unimportant amendment. As Mr. Denham suggests, it would probably prevent the Board from making local chambers of commerce and other employer associations parties to its proceedings unless they were agents of the particular employer in a legal sense. It would not, however, prevent the Board from basing unfair labor practices, as it did in the Machinists' case (311 U. S. 72), upon the actions of supervisory employees since these men are agents of employers.

Page 6: Mr. Denham thinks that the language of S. 360, which deprives of employee status a person who has been replaced while engaging in a strike, goes too far if the strike arose out of an unfair labor practice. He feels that even though unfair labor practices can be redressed by the Board's machinery, employees should still be permitted to strike to compel an employer to conform to the act, for example, if an employer has made a discriminatory discharge.

This is a really sharp disagreement with one of the main purposes of Senator Ball's bill, since his premise is that where the law affords a means of peaceful settlement, employees should resort to this rather than to direct action. If they choose to resort to direct action by striking, then he would not give them any remedy under the act and would permit an employer to be free to use self-help.

Page 7: Mr. Denham feels that the revision of the definition of "employee" in S. 360, so as to exclude supervisors, is too broad. There is something to be said for his criticism of a definition of "supervisor" in taking in certain categories who do not perform genuine supervisory or monitorial functions. It should be noted, however, that at the executive session of the committee on Monday, Senator Ball agreed to limit his definition considerably, and a substitute draft on this point (copy of which is attached hereto) was laid before the committee. One other suggestion of Mr. Denham's on this section does not strike us as sound; namely, his theory that even genuine supervisory employees should be given the right to select labor organizations as bargaining representatives which admit to membership only supervisory personnel. In other words, his bill would prevent foremen from joining or being represented by affiliated unions like the United Mine Workers, but would apparently sanction nominally independent organizations like the Foremen's Association of America. Such a compromise would be futile. Every case which has come before the Board had indicated clearly that the Foremen's Association collaborates, and must collaborate in order to be effective, with rank-and-file unions. Consequently, it has arrangements with them in respect to mutual abstention from crossing picket lines or taking one another's jobs in the event of a strike. Consequently, the supervisory unions are as much beholden to the big affiliated unions as they would be if they were formally joined with them. Thus, the issue of divided loyalty is equally present in these cases.

Page 9: Mr. Denham does not feel that the provisions in S. 360 separating the functions of the Board by assigning prosecuting and investigative functions to the Department of Justice is wise. It should be noted that at the executive session of the committee on Monday, the committee favored an intermediate solution of this problem of separation of functions, and accordingly instructed that an amendment be drawn which would compartmentalize the judicial and prosecuting functions but leave the general structure of the Board intact. This compromise amendment will probably appear in the new committee print.

Page 11: Mr. Denham seems to object to the provisions which exclude the trial examiner from sitting in with the Board after his report has been assailed and exceptions taken by the parties. The purpose of this provision is to do away with the practice which now exists, which seems completely repugnant to good administrative procedure. If a trial examiner should be allowed to defend his report in camera after the Board has already heard open arguments on it, it would seem to follow that a district judge should be allowed to sit with the circuit court of appeals and argue in support of his original position. The trouble with the way the Board conducts the judicial business today is that it does delegate too much authority to the Review Division and to the review and trial examining staff. The purpose of the Ball amendments was to make it necessary for the Board members to pay more attention to their judicial duties and to eliminate from the judicial process persons who had already taken a position on the issues.

Page 11 (p. 8, line 4 of S. 360) : Mr. Denham regards the proposed sections 8 (b), 8 (c), and 8 (d) in S. 360 as valuable additions to the act, but feels that the complete elimination of the closed-shop proviso in section 8 (3) is unwise. He makes an intermediate proposal which has the same purpose as section 8 (b) (3) of S. 858, the Morse bill. You will recall at the executive session of the committee this morning (Tuesday) it was suggested that the compromise proposal made by Senator Taft be made the subject of a new draft and circulated to the Senators.

Page 13 (p. 9, line 5 of S. 360) : Mr. Denham objects to the proposal in section 9 (b) of S. 360 which would prevent the Board from deciding "that any craft unit is inappropriate \* \* \* on the ground that a definite unit has been established by a prior Board determination, unless a majority of the employees in the proposed craft unit vote against separate representation."

We think that Mr. Denham misconceives the purpose of this amendment. It would not give all alleged crafts a chance for a separate vote, since it does not change the current rules of decision of the Board insofar as to require that the proposed unit be a genuine craft. All that the amendment does is to say that a prior Board determination, finding that a larger unit was appropriate, shall not of itself forever bar a genuine craft group from asking for separate voting rights.

Page 14: Mr. Denham is apprehensive that the provision in S. 360 which permits petitions for decertification as well as petitions for certification would invite industrial turmoil unless subject to the 12-month rule appearing in subsection (4). It was the intent of subsection (4) that this rule should control, so that the arguments which Mr. Denham advances with respect to subsections 9 (b) (2) and 9 (b) (3) are based upon an erroneous premise.

Page 15: Mr. Denham correctly interprets the provisions on page 11 of S. 360 which prevent the Board from making any disparative treatment in its orders with regard to independent unions, which it would not do if the union were national or international in scope.

The present Board practice seems to substitute the Board's own judgment for the freedom of choice which the act was meant to bring to employees. Mr. Leo Wolman's testimony during the first week of the hearings was quite illuminating and we are glad that Mr. Denham agrees with this thesis.

Page 15: Mr. Denham concurs with the amendment in S. 360 which would correct certain disparative treatment in the present regulations for run-off elections. Under these regulations if two or more unions are on the ballot and a plurality of the employees vote for "Neither," the choices, including "Neither," go on the final ballot, but if the second largest choice is for "Neither," the two choices listed on the run-off ballot are limited to the unions. As Mr. Denham says, the Ball amendment would correct this.

Page 15: Mr. Denham raises the point as to whether the language in S. 360, which requires a complaint to be amended by the division with the approval of the Board, does not unduly encroach upon the discretion of trial examiners. There is some merit to this criticism, and we do not believe that it was the intent of S. 360 to limit the discretion of trial examiners in granting amendments to pleas. The defect in S. 360 might be corrected by inserting, after the word "Board" in line 25, the words "or the trial examiner."

Page 16: Mr. Denham comments here on the extent to which S. 360 will broaden the scope of judicial review in circuit courts of appeals. Under the present act, the findings of the Board are conclusive if supported by the evidence, which has been interpreted as meaning substantial evidence. The Ball bill would require the circuit courts of appeals to attach conclusiveness if findings are supported by the weight of the evidence.

There has been some criticism of current practice on the ground that the Board can base its findings on the testimony of one witness, even though he might be contradicted directly by six others. Mr. Denham feels that the standards in the present act conform to those in the Administrative Procedures Act as well as most other administrative agencies. He is correct in this respect, but there is no doubt that many would disagree with his view that most trial examiners (and the Board) decide all cases according to the weight of the evidence. It is true that an examiner as conscientious as Mr. Denham does so, but there have been a number of cases in recent years in which the courts have intimated that they regarded the Board's findings as not sustained by the weight of the evidence. A possible compromise between the Ball bill and Mr. Denham's views might be to adopt the language, "unless contrary to the weight of the evidence."

Page 18: Mr. Denham suggests that in addition to the kind of strikes which are prohibited by S. 360, it might also be desirable to prohibit strikes accompanied by mass picketing and violent picketing.

We think there is a good deal to be said for his suggestion, although there seems to be a sentiment in the committee to the effect that the problem of mass violence is one for local police authorities and should not be dealt with specifically in the proposed Federal labor legislation.

Senator DONNELL. Now, Mr. Denham, going back to the subject matter with respect to the investigation which you have made with respect to provisions in the State laws as distinguished from the Federal laws, do you mind just picking out at random, or if you have some particular State in mind, that State, some other illustrations that you have found in the course of your investigation: just a few of them.

Mr. DENHAM. Well, I can pick them up at random, sir, and I do not know what I will run into because there are some that have no particularly outstanding—

Senator NEELY. Would you pick up the one from West Virginia and read it?

Mr. DENHAM. Senator, when I first looked this over I discovered there was not any from West Virginia, although West Virginia was on the list.

Senator NEELY. It is still the land of the free and the home of the brave.

(Laughter.)

Mr. DENHAM. Well, I think I have one with which I think I can accommodate you if you will pardon me while I look through the papers.

Senator NEELY. You will not find one similar to the one you just read. If you will, I will support you instead of Senator Taft for the Republican nomination for President.

(Laughter.)

Senator DONNELL. We will be glad to welcome Senator Neely over into the Republican Party any day.

(Laughter.)

Senator NEELY. I am not coming over.

Mr. DENHAM. Senator Neely, here is the memorandum on West Virginia, one sheet long. With your permission, sir, I shall read it in its entirety, except where it refers to the Taft-Hartley Act, and that, I think, we can assume we are sufficiently familiar with to recognize any similarity, if there is any.

West Virginia has no separate labor relations act similar to the N. L. R. A. Sections 2459 and 2461, "Labor disputes of mine workers, West Virginia."

This states that it is unlawful to prevent a person from working in or about a mine by threats, force, or otherwise. However, it is not unlawful to induce a person not to work in or about a mine for lawful purposes by persuasion or argument.

Pertaining to the Taft-Hartley Act, N. L. R. A. contains no provision directed at a specific industry. However, section 8 (a) (1) makes it an unfair labor practice for an employer to interfere with, restrain, and so forth, and section 8 (b) makes it an unfair labor practice for a union to restrain, coerce employees in the exercise of their rights, and so forth.

Then, we get to the third item which comes under section 6038 of the laws of West Virginia.



It states, that five or more individuals assembled for an unlawful purpose and threatening violence to the person or property of a person supposed to have violated a law is a mob and if damage is inflicted, they are guilty of a felony.

The N. L. R. A. contains no identical provision. However, under all the rulings as we have interpreted them, mass picketing is prohibited.

Section 6037, the subject of strike breaking, is as follows:

Employers are prohibited from engaging nonresidents for police duty or in any way to assist in the execution of the State laws.

The N. L. R. A. contains no such provision. However, an employer engaged in strike breaking would violate section 8 (a) of the act. Then, there is the interference with political activity under section 175. It is unlawful for an employer to influence the political actions or opinions of his employees by the threat that if any political candidate is defeated or elected work will cease or any other threat.

It is also unlawful to prevent an employee from voting by threat of discharge. N. L. R. A. contains no such provision, nor a like provision. An employee may absent himself from work for 3 hours in order to vote in an election without deduction of pay and those who violate this provision are guilty of a misdemeanor. That constitutes all that we are able to find in the laws of West Virginia dealing with labor relations directly or—

Senator NEELY. I think that your failure to find anything similar to the Taft-Hartley law in the statutes of West Virginia is so complete that I shall be obliged to continue to support Senator Taft for the Republican nomination. [Laughter.]

Mr. DENHAM. I still withdraw.

Senator NEELY. I want one or the other of you two to be nominated on the Republican ticket but I think I must prefer Senator Taft.

Senator TAFT. As I understand it, Mr. Denham, in effect, the laws of West Virginia simply contain a prohibition against mass picketing.

Mr. DENHAM. In effect that is the only prohibition. I could read the résumé—

Senator TAFT. And they have failed to adopt a little Wagner Act when the Wagner Act was enacted nationally.

Mr. DENHAM. We could not find it.

Senator DONNELL. Mr. Denham, I do not want you to take too much time on this, because I am going to have you, if you will permit us, to put all of this in the record, but I wonder if you would be willing to give us an illustration or two more of just any State that you might pick out.

Senator MURRAY. Does the Senator intend to have this printed in the record?

Senator DONNELL. I think it should be, Senator.

Mr. DENHAM. There are certain States, Senator, that we know have prohibitory statutes with reference to closed shops, and things of that sort.

Senator DONNELL. Yes.

Senator TAFT. How many? Not that I am interested in it, because this attempts to invalidate those.

Mr. DENHAM. I am not able to tell you exactly, but Mr. Smith tells me there are 14 such States we know of.

Senator DONNELL. That have prohibitions against closed shops?

Mr. DENHAM. Against the union-security provisions.

Senator DONNELL. Yes.

Mr. DENHAM. They are all in here, but for instance, the next one I happen to come to is Georgia, and Georgia has a provision which says that nothing in the powers of arbitration, mediation given to the Commissioner of Labor shall limit the employee's right to bargain collectively, and then it is unlawful for any person acting alone or in concert with others to compel any person to join or refrain from joining any labor organization or to strike or refrain from striking against his will by any threatened or actual interference with his person.

Senator DONNELL. Now, that prohibition, if I may interrupt, is directed against any person. That would include not only an employer but an employee and a labor organization.

Mr. DENHAM. Yes, sir.

Senator DONNELL. Just like the Taft-Hartley Act has provisions leveled against both employer and employee.

Mr. DENHAM. A hasty reading would lead me to that conclusion.

Senator DONNELL. Very well.

Mr. DENHAM. To strike or to refrain from striking against his will by any threatened or actual interference with his person, immediate family, physical property, or by any threatened or actual interference with the pursuit of lawful employment by such person or by his immediate family. Violations are made misdemeanors.

Then, the digest of the closed shop and union-security limitations which have been made here read as follows:

Georgia has enacted an anti-closed-shop law which in substance provides that no individual shall be required as a condition of employment or continuance of employment, to be or remain a member or to affiliate with a labor organization or to refrain from membership in or affiliation with a labor organization; nor shall any individual be required as a condition of employment or continuance of the same to pay any fee, assessment, or other sum of money whatsoever to a labor organization.

The comment here on this memorandum is:

Georgia thus outlaws even the union-security provision contained in the proviso to section 8 (a) of the Taft-Hartley Act.

Senator DONNELL. Yes, sir.

Mr. DENHAM. If you desire to continue with these—

Senator DONNELL. I do not want to pursue this in great detail because the record will show that. I am wondering when was this compilation made that you are reading?

Mr. DENHAM. This compilation that I have here was made quite recently, within the last 30 days.

Senator DONNELL. I am wondering if it shows in my own State the so-called King-Thompson labor bill.

Mr. DENHAM. I think it does, sir.

Senator DONNELL. Would you be kind enough to turn to that?

Mr. DENHAM. In Missouri, article I, section 29 of the Missouri Constitution says the right of organizing and bargaining—

Senator DONNELL. That is the new Constitution of Missouri that was adopted in 1945; is it not?

Mr. DENHAM. I think so.

Senator DONNELL. I believe it was 1945.

Mr. DENHAM. I do not have the date of it. Employees have the right to organize and bargain collectively through representatives of their own choosing. We are familiar with section 7 of the Taft-Hartley Act.

In Senate bill 79, laws of 1947, section 2, subsection 1—by the way, that is not a quotation of the law, these are simply digests made by the men who handle the stuff—controversies between unions or between employers and employee groups over representation or work will be settled between the parties to the dispute without work stoppage, otherwise they will submit the controversy to final and binding arbitration as is agreeable to the parties. Failing this, the industrial commission thereupon upon application by either party may make a determination, which is binding on all parties.

Section 303 of our act makes it unlawful for labor organizations to engage in a jurisdictional strike, as we know.

Then, the next section, a subsection of the above section, states that the industrial commission may conduct an election among the employees for the purpose of determining the bargaining agent upon a majority vote.

Another section subsequently—it is noted here—states that employees will not strike unless such strike has been authorized by a majority vote of all employees eligible to vote at an election, after notice to all voters and held not more than 60 days prior to such strike.

In section 5 of B. S. 79, laws of 74—what is "B. S."?

Senator DONNELL. I have no idea what it is. [Laughter.]

Mr. DENHAM. Maybe it is "R. S.", Revised Statutes.

Senator DONNELL. Yes; Revised Statutes.

Mr. DENHAM. I can think of a lot of other things, Senator, too—collective bargaining contracts are enforceable at law or in equity, and the breach thereof is subject to the same remedies, including injunctive relief, as other contracts.

Senator DONNELL. Mr. Denham, do you observe as you scan the pages that you are now looking at from Missouri any provision with regard to strikes of employees of public utilities?

Mr. DENHAM. Yes, sir.

Senator DONNELL. Would you tell us what it says there?

Mr. DENHAM. "It is a misdemeanor for a State employee to strike," which is in section 7.

Senator DONNELL. That has a striking resemblance to section 305 of the Taft-Hartley Act; at least in substance.

Mr. DENHAM. Yes, sir. That is the one you are speaking of. When we come to the secondary boycott—

Senator DONNELL. Pardon me, the one to which you referred is governmental. I am talking now about public utilities. To illustrate, I am talking about an electric light company or a power company, a water company, a gas company, or anything of that type.

Mr. DENHAM. I do not find it, unless it would be included. These résumés sometimes may overlook something of that sort that would be in the act unless it directly is applicable to that, and dealt with no other subject.

Senator DONNELL. Mr. Denham, I will not take more time on that, but would you be kind enough to have your representative in your office examine the law of Missouri and if you find additional provisions which you will find with respect to strikes against public utilities, to have that added, if it is not already in here?

Mr. DENHAM. If it is not already in here I shall see that it is added; yes, sir.

Senator DONNELL. I think you will find a very strong vigorous provision in the Missouri law with respect to that, which was a recent matter, recently the subject matter of considerable public comment in Missouri.

Senator TAFT. May I ask the Senator whether the legislatures that passed these laws were Republican or Democrat?

Senator DONNELL. Republican. I cannot say in regard to every provision; I cannot say that, but the King-Thompson Act was an act which the authors submitted, and they were Mr. King and Mr. Thompson. Mr. King is a very well known member of the Republican Party, and Mr. Thompson was the Republican candidate for governor this year, this past year, 1948.

Senator HILL. What happened to him?

Senator HUMPHREY. How did he come out? [Laughter.] Would you like to give us the vote?

Senator DONNELL. Yes, I can give you the vote. [Laughter.]

Senator HILL. Senator, let me ask one question. I imagine that this bill was discussed quite a bit in that campaign, was it not, since his name was on it?

Senator DONNELL. Yes, I think it was; yes, sir.

Mr. DENHAM. I shall have that investigation made, Senator, and whatever there is on that in the record, I will have added, and I have a recollection of that bill myself.

Senator DONNELL. Yes.

Mr. DENHAM. That will be added to what you have here. If you desire the group, as I say, this incorporates a digest made by my staff of the laws of the 46 States.

Senator DONNELL. Yes.

Mr. DENHAM. Which deals with and does——

Senator DONNELL. Well, now, generally speaking, Mr. Denham, would you say there are a considerable number of provisions of the various States which evidence a striking similarity to the provisions of the Taft-Hartley Act, at least in principle?

Mr. DENHAM. A very substantial number of them will be found to contain one or more of the outstanding features of the Taft-Hartley Act. It would be quite a chore to attempt to take them one by one, and analyze them here with the time as precious as it is.

Senator DONNELL. Mr. Chairman, I offer in the record at this time the complete compilation, and ask that it be supplemented by such, if any, additional data that Mr. Denham furnishes from Missouri or any other State.

Senator MURRAY. Yes, it may be done.

(Mr. Denham subsequently addressed the clerk as follows:)

NATIONAL LABOR RELATIONS BOARD,  
Washington 25, D. C., February 16, 1949.

Mr. EARL B. WINCEY.

*Clerk, Senate Committee on Labor and Public Welfare,  
United States Capitol Building, Washington 25, D. C.*

DEAR MR. WINCEY: During my testimony in the day session on February 9, Senator Donnell offered in the record a compilation of comparative statutes in the various States as they related to the matter that is touched upon in the Taft-Hartley Act. These were offered to be printed, in full, in the record. The reference on this is found on page 2132 of the transcript for the day session, February 9, 1949.

Senator Donnell asked me, also, to supplement the material with reference to the laws of Missouri by whatever might be found pertaining to labor relations in public utilities in Missouri. I have done that, and have attached to the abstract of the Missouri laws the material pertaining to labor disputes in public utilities, which is found in the Laws of 1947 of Missouri.

It was also asked that I have these various compilations documented so as to refer them to the various enactments on which the provisions of the respective codes are based. That has been done, as indicated in the covering memorandum which is descriptive of the material.

I think this is now complete and submit it for inclusion in the record, as indicated on page 2132 of the transcript.

Very truly yours,

ROBERT N. DENHAM, *General Counsel*.

Each of the 48 States has some legislation covering one or more of the general type of subjects affecting labor-management relations as is covered in the National Labor Relations Act, as amended.

In the attached memoranda each item of such legislation is summarized and compared with the comparable provision, if any, of the Federal statute.

The dates of the State legislation are given either in the body of the memorandum on the State or on a separate sheet attached to it.

### ALABAMA

1. Alabama has no separate labor relations act similar to N. L. R. A.

2. *Title 26, section 376<sup>1</sup> (policy)*

(a) It is the policy of the State, in the exercise of its police power, and in the public interest, to promote voluntary and peaceful settlement and adjustment of labor disputes and to regulate the activities and affairs of labor organizations, their officers and agents and other representatives.

(b) Section 1, N. L. R. A.: It is declared the policy of the act that industrial strife may be minimized if employers, employees, and labor organizations recognize each other's legitimate rights and, above all, recognize that they have no right to engage in acts which jeopardize the public health, safety, or interest. Also, to prescribe the legitimate rights of each party, to provide orderly procedures for the protection of these rights, and to prevent practices which are inimical to the general welfare.

3. *Title 26, section 382 (registration)*

(a) Every labor organization functioning in the State must file a copy of the constitution and bylaws of both the local and national union with the State department of labor and any future changes therein. Unions with more than 25 members must execute and file an annual written report with each member and the department of labor, showing its name and location, names and addresses of its officers and agents and their salary, date of election and number of members, a financial statement and a statement of property owned and money on hand.

(b) Section 9, (f) and (g), N. L. R. A.: Prior to the processing of representation cases, union-shop elections, or charges of unfair labor practices, the union, as well as any national or international with which it is affiliated, must have filed specified financial and organizational reports with the secretary of labor, and must prove that it has furnished copies of the financial report to all of its members. This information must be kept current by annual reports.

4. *Title 26, section 390 (fees, dues, and assessments)*

(a) Unions may not collect any fee as a work permit or as a condition for the privilege to work. This does not prevent the collection of initiation fees or dues.

(b) N. L. R. A. contains no like provision; however, section 8 (b) (5) prohibits requirement of payment of initiation fees which the board finds to be excessive or discriminatory from employees covered by union-security agreements.

5. *Title 26, section 383 (right to organize and bargain)*

(a) Every person (except supervisory and professional employees) is free to join or refrain from joining labor organizations. In the exercise of such freedom they shall be free from interference by force, coercion, intimidation, or by threats of injury to family.

<sup>1</sup> References are to Alabama Code of 1940.

(b) Section 7, N. L. R. A. (rights of employees) : Guarantees to employees the rights of self-organization and of engaging in concerted activities for their mutual aid or protection; also, the right to refrain from such activity, except as such right may be affected by a valid union-security agreement.

6. *Title 26, section 391 (supervisory and professional employees)*

(a) It is unlawful for any executive, administrative, professional, or supervisory employee to be a member in or be accepted for membership by any labor organization which permits membership to employees other than those in such capacities (as supervisors, etc.), or which is affiliated with such a labor organization.

(b) Section 14, N. L. R. A. (supervisors) : Declares the right of supervisors to form and joint unions, but denies them the protection of the N. L. R. A. or any local law in the exercise of this right.

7. *House Joint Resolution 142, General Acts 1939 (State employees)*

(a) Organization of State employees in labor organizations for purposes of collective bargaining is viewed with disfavor by the legislature.

(b) Section 305, N. L. R. A. (Federal employees) : Makes it unlawful for any Federal Government employee to participate in any strike and imposes discharge penalties for violation thereof.

8. *Title 39, section 201 (check-off)*

(a) Orders given by employees assigning the whole or part of future wages are void.

(b) Section 302 (c) (4) N. L. R. A. : Allows an employer to turn over to the union checked-off dues, so long as the check off is voluntary and authorized by written assignment which is irrevocable for not more than 1 year.

9. *Title 26, section 388 (strikes)*

(a) Must be authorized by a majority of regular employees expressed by secret written ballot. If strike is so authorized, the union must file a report thereof with the State department of labor within 24 hours. Penalties are imposed for false report or failure to file. Also, it makes unlawful, force or threat of force to secure or prevent attendance at meetings or strike voting places or to influence the vote by intimidation or threat or offering a reward or loss of employment or membership in a union and makes a violation thereof a misdemeanor. (Held to be unconstitutional, see par. 10 below.)

(b) N. L. R. A. contains no like provision.

10. *Title 26, sections 377 and 389 (outlaw or wildcat strikes)*

(a) Strikes not authorized by vote as provided above. Taking part in such a strike is a misdemeanor. (Held unconstitutional to extent it makes sec. 388, above, more effective.)

(b) N. L. R. A. contains no like provision.

11. *Title 14, section 440 (vagrancy)*

(a) Persons idle because of a strike or lock-out are excluded from application of the criminal statutes relating to vagrants, vagabonds, and tramps.

(b) N. L. R. A. contains no like provision.

12. *Title 54, section 12 (prosecution)*

(a) The sheriff may institute criminal prosecution for violation of laws for suppression of boycotting, blacklisting, or picketing if he ascertains facts constituting prima facie evidence of guilt.

(b) N. L. R. A. contains no like provision.

13. *Title 14, section 54 (hindering business)*

(a) It is unlawful for two or more persons to agree to hinder, delay, or prevent the carrying on of any lawful business without a just cause. Violations are punishable as a misdemeanor.

(b) N. L. R. A. contains no like provisions.

14. *Title 14, section 56 (boycott notices)*

(a) Printing or circulating notice of boycott, boycott cards, stickers, dodgers, or unfair lists, declaring that a boycott or ban exists is forbidden; misdemeanor.

(b) N. L. R. A. contains no like provision.

*15. Title 14, section 61 (subversive teaching)*

(a) Teaching or printing books or papers or organizing others for the purpose of encouraging violations of the above section is forbidden; misdemeanor.

(b) N. L. R. A. contains no like provision.

*16. Interference with employment.*

(a) (1) Title 26, section 336: Makes unlawful the interference by force or threats of violence to person or property or by duress seeks to prevent engagement in peaceful work in a lawful industry.

(2) Title 26 section 384: Makes unlawful the use of force or violence or threat thereof to prevent any person from engaging in any lawful vocation within the State.

(3) Title 14, section 57: Makes unlawful the use of force, threats, intimidation, or by other unlawful means to prevent persons from engaging in any lawful occupation or business.

(4) Title 14, sections 101 and 103: Makes a conspiracy to prevent another from exercising any lawful trade or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another unlawful.

(b) Section 8, N. L. R. A. (unfair labor practices): Makes it an unfair labor practice for an employer to interfere with, restrain or coerce employees in the exercise of their self-organization rights. Also, makes it an unfair labor practice for a union to restrain or coerce employees in the exercise of their self-organization rights, or to cause or attempt to cause an employer to discriminate against an employee, except for the nonpayment of dues under union-security agreement.

*17. Title 14, section 60 (seizure of property)*

(a) Unlawful seizure or occupation of property is a misdemeanor.

(b) N. L. R. A. contains no like provision; however, discharge of employees under circumstances of unlawful seizure of property has been held proper.

*18. Title 26, section 385, and title 14, section 407 (unlawful assembly)*

(a) Unlawful for any person acting in concert with one or more persons to assemble at or near any place of employment and by force or violence or threat prevent or attempt to prevent any person from engaging in any lawful vocation or to aid in such an assembly; misdemeanor.

(b) N. L. R. A. contains no like provision.

*19. Title 14, section 59 (sabotage)*

(a) Interference with business, destruction, or attempt to destroy property or attempt or threat of derangement of business is a misdemeanor.

(b) N. L. R. A. contains no like provision; however, would be unfair labor practice if connected with union activities.

*20. Title 14, section 409 (demolishing property)*

(a) If persons unlawfully assembled demolish any property, they are guilty of a felony.

(b) N. L. R. A. contains no like provision; however, would be considered an unfair labor practice under 8 (b) if connected with union activity.

*21. Title 7, sections 142, 143, and 144 (sue and be sued; service of process)*

(a) Labor organizations may sue and be sued. Service of process may be had by service upon any officer or official member of such organization.

(b) Section 301, N. L. R. A. permits suits in the Federal district courts for breach of contract between employer and a union or between unions. Service of process may be had upon an officer or an agent of the union.

*22. Title 7, section 145 (judgment)*

(a) The property of the union is liable to the satisfaction of a judgment in favor of the plaintiff against a union.

(b) Section 301 (b), N. L. R. A.: Money judgment against a union is enforceable against the union as an entity and its assets, but not against an individual member.

*23. Title 14, section 58 (blacklisting)*

(a) It is unlawful for an employer to prevent a person from gaining employment by notifying employers that such person has been blacklisted.

(b) N. L. R. A. contains no like provision; however, such a practice would be considered an unfair labor practice under section 8 (a).

24. *Title 17, sections 317 and 318 (hindering political activity)*

(a) It is unlawful for an employer to influence an employee's vote by threat, coercion or discharge.

(b) N. L. R. A. contains no like provision; however, such action would be considered a violation of section 8 (a).

25. *Title 26, sections 331, 332, and 333 (enticing away apprentice or laborer under contract)*

(a) It is unlawful to entice away an apprentice from his master or a laborer (such as a share cropper) under contract before the expiration of the contract. If such an employee is found in the employment of another prior to the termination of the contract, that fact is prima facie evidence of guilt if he refuses to discharge such laborer or servant.

(b) N. L. R. A. contains no like provision.

Reference	Date
2. Title 26, sec. 376 (policy)-----	June 29, 1943.
3. Title 26, sec. 382 (registration)-----	Do.
4. Title 26, sec. 390 (fees, dues, and assessments)-----	Do.
5. Title 26, sec. 383 (right to organize and bargain)-----	Do.
6. Title 26, sec. 391 (supervisory and professional employees).-----	Do.
7. H. J. Res. No. 142 (State employees)-----	General Acts, 1939.
8. Title 39, sec. 201 (check-off)-----	June 29, 1943.
9. Title 26, sec. 388 (strikes)-----	Do.
10. Title 26, secs. 377 and 389 (outlaw of wildcat strikes)---	Revised, 1903, 1940.
11. Title 14, sec. 440 (vagrancy)-----	Sept. 20, 1919.
12. Title 54, sec. 12 (prosecution)-----	Oct. 29, 1921.
13. Title 14, sec. 54 (hindering business)-----	Do.
14. Title 14, sec. 56 (boycott notices)-----	Do.
15. Title 14, sec. 61 (subversive teaching)-----	June 29, 1943.
16. Interference with employment:	
(1) Title 26, sec. 336-----	Do.
(2) Title 26, sec. 384-----	Revised, 1940.
(3) Title 14, sec. 57-----	October 29, 1921.
(4) Title 14, secs. 101 and 103-----	Do.
17. Title 14, sec. 60-----	June 29, 1943.
18. Title 26, sec. 385 (unlawful assembly)-----	Oct. 29, 1921.
19. Title 14, sec. 59 (sabotage)-----	Revised, 1940.
20. Title 14, sec. 409 (demolishing property)-----	Oct. 28, 1921.
21. Title 7, secs. 142, 143, and 144 (sue and be sued; service of process).-----	Do.
22. Title 7, sec. 145 (judgment)-----	Do.
23. Title 14, sec. 58 (blacklisting)-----	Do.
24. Title 17, secs. 317 and 318 (hindering political activity)---	Revised, 1940.
25. Title 26, secs. 331, 332, and 333 (enticing away apprentice or laborer under contract).	1920.

## ARIZONA

1. Arizona has no separate labor relations act similar to N. L. R. A.

2. *Sections 56-120 and 43-1608<sup>1</sup> ("yellow dog" contracts)*

(a) (1) Public policy: Employment contracts whereby (a) either party promises not to join or remain a union member, or (b) promises to withdraw from employment if he joins or remains a union member is contrary to public policy and void.

(2) Coercion to enter into: It is unlawful for any person to coerce anyone to enter into a "yellow dog" contract.

(b) N. L. R. A. contains no like provision; however, the enactment of such a contract would be an unfair labor practice under section 8 (a).

<sup>1</sup> References are to Arizona Code Annotated, 1939, unless otherwise indicated.



### 3. *Closed shop and union security*

(a) (1) Section 56-1301, Cumulative Supplement, definition of "labor organization": This definition is substantially identical with that found in section 2 (5), N. L. R. A.

(2) Section 56-1302, Cumulative Supplement, prohibited agreements: No person will be denied employment because of nonmembership in a labor organization, nor shall agreements be entered into which excludes employment because of nonmembership in a union.

(3) Section 56-1303, Cumulative Supplement, void contracts: An agreement in violation of paragraph 2, above, is void. A strike or picketing to force an employer to make such a contract is illegal.

(4) Section 56-1304, Cumulative Supplement, compelling union membership: It is unlawful to compel or attempt to compel a person to join a union or strike against his will by threat or interference to his person, family, or property.

(5) Section 56-1305, Cumulative Supplement, conspiracies to violate act: Conspiracies of two or more persons to cause a person to be denied employment, or including or attempting to induce a person to refuse to work with a person, because of nonunion membership is illegal.

(6) Section 56-1306, Cumulative Supplement, liability for damages: Violations of the above provisions are liable to the person injured. Unions are bound by the acts of its agents and may sue or be sued in its common name.

(7) Section 56-1307, Cumulative Supplement, injunctive relief: Persons injured or threatened to be injured by violation of any of the above prohibitive provisions, are entitled to injunctive relief.

(b) (1) Section 8 (a) (3) permits union-shop agreements, providing the union is certified by the board after a vote of a majority of the employees to authorize the union to make such an agreement. Under such an agreement an employer may employ a nonunion member but continued employment is conditioned upon membership in the union after 30 days. The employer will not justify discrimination against an employee for nonmembership in the union except for nonpayment of dues and initiation fee.

(2) Section 8 (b): While N. L. R. A. contains no provisions similar to paragraphs (4), (5), (6), and (7) above, actions of such nature would be considered unfair labor practices, except so far as union membership may be required under 8 (a) (3).

### 4. *Section 66-701 (strikes)*

(a) The State highway patrol will not be used as peace officers in connection with a strike or labor dispute.

(b) N. L. R. A. contains no like provision.

### 5. *Section 43-130½ (unlawful assembly)*

(a) Assembly of two or more people to do an unlawful act in a violent, boisterous, tumultuous manner, is an unlawful assembly and participants are guilty of a misdemeanor.

(b) N. L. R. A. contains no like provision.

### 6. *Sections 26-109, 110, and 111 (anti-injunction laws)*

(a) Prohibits injunctions in any case between employer and employee in a labor dispute, unless necessary to prevent irreparable injury to property for which no adequate legal remedy exists. Nor will an injunction be granted to prevent peaceful strikes or peaceful picketing for lawful purpose. Mining injunctions are prohibited, except upon notice and bond.

(b) Sections 10 (j) and (l), N. L. R. A.: The board may apply to the Federal courts for a temporary restraining order when an unfair labor practice complaint has been issued but before determination on the issues have been made. Also, regional attorneys of the board will apply for injunctions against strikes or concerted activity by unions if an object thereof is an unfair labor practice under section 8 (b) (4) if after investigation the regional attorney has reasonable grounds to believe the charge is true.

### 7. *Section 43-1606 and 1607 (blacklisting)*

(a) Exchanging or solicitation of a labor blacklist whereby a laborer is prevented from work, is prohibited by State constitution. Employers who violate this section are guilty of a felony.

(b) N. L. R. A. contains no like provision, however, such a labor practice would be deemed unfair under section 8 (a).

8. *Section 56-1605 (discrimination)*

(a) Discrimination by an employer against an employee for service on or because of testifying before a wage board is unlawful.

(b) N. L. R. A. contains no like provision, however, discrimination of this nature would violate section 8 (a).

9. *Sections 43-1605, 1506, and 1507 (interference with political activities)*

(a) Any attempt, by threat to employment or otherwise, to induce a person to refrain from signing any initiative or referendum is a misdemeanor. Also, it is unlawful for an employer to induce a person to vote or refrain from voting at any election by enclosing political propaganda in an employee's pay envelope, or by threats or otherwise to influence the vote of an employee.

(b) N. L. R. A. contains no like provision.

if done by each.

(a) Employees are entitled to 2 hours to vote in any general election without penalty or pay deductions. Refusal thereof is a misdemeanor.

(b) N. L. R. A. contains no like provision.

11. *Section 43-2603 (false pretenses)*

(a) It is unlawful for an employer to employ a person without having within the county assets sufficient to cover 2 weeks wages of the employee and who fails to pay the wages when due on demand within 5 days.

(b) N. L. R. A. contains no like provision.

12. *Section 56-119 (gratuity for employment)*

(a) It is unlawful for supervisory employees to exact any fee or commission from an employee for employment or continuance thereof.

(b) N. L. R. A. contains no like provision.

Reference	Date
2. Secs. 56-120 and 43-1608 ("yellow dog" contracts)	1931.
3. Closed shop and union security:	
(a) (1) Sec. 56-1301-----	Ch. 81, L. 1947. Referendum; general election, Nov. 2, 1948; favored; effective Nov. 22, 1948.
(2) Sec. 56-1302-----	
(3) Sec. 56-1303-----	
(4) Sec. 56-1304-----	
(5) Sec. 56-1305-----	
(6) Sec. 56-1306-----	
(7) Sec. 56-1307-----	
4. Sec. 66-701 (strikes)-----	1933.
5. Sec. 43-1304 (unlawful assembly)-----	1913.
6. Secs. 25-109, 110 and 111 (anti-injunction laws)---	1913.
7. Sec. 43-1606-1607 (black listing)-----	1915.
8. Sec. 56-1302, Cumulative Supplement (discrimination)-----	1947.
9. Secs. 43-1505, 1506, 1507 (interference with political activities)-----	1913.
10. Sec. 55-514 (voting)-----	1913.
11. Sec. 43-2603 (false pretenses)-----	1913.
12. Sec. 56-119 (gratuity for employment)-----	1912.

## ARKANSAS

1 *Arkansas has no separate labor relations act similar to N. L. R. A.*

2. *Constitutional Amendment No. 34. (Closed shop and union security limitations)*

(a) Employment will not be denied a person, by contract or otherwise, because of membership in, resignation from, or because of refusal to join a labor union. Nor shall a person be compelled to pay dues to a labor organization as a condition of employment.

(b) Section 8 (a) (3), N. L. R. A.: Employer and union may enter into a union-shop agreement, providing the union certified by the board after a vote of a majority of the employees to authorize the union to enter into a union-shop agreement. Thereunder employers may employ nonunion members, continued employment, however, is conditioned upon union membership after 30 days from effective date of such an agreement. The employer will not justify discrimination

against an employee for nonmembership in the union except for nonpayment of dues and initiation fee.

3. *Chapter 101, Laws, 1947 (bargaining)*

(a) It is the policy of the State that organized labor and unorganized labor be free to bargain collectively or individually under amendment No. 34 to the constitution (par. 2 (a) above).

(b) Section 7, N. L. R. A., guarantees to employees the right of self-organization and of engaging in concerted activities for their mutual aid or protection. Also, employees may refrain from such activity except to the extent that such rights may be affected by a valid union-security agreement.

4. *Part II, Criminal Law 7, sections 1-5, 1944 Supplement, Pope's Digest (interference with employment)*

(a) It is unlawful for any person to prevent or attempt to prevent any person from engaging in any lawful vocation by use of force, violence, or threat. Also, it is unlawful for a person acting in concert with others, to assemble at or near a place where a labor dispute exists and thereby prevent or attempt to prevent any person from engaging in a lawful occupation, by use of force or violence. Violation is a felony.

(b) Section 8, N. L. R. A. (unfair labor practices): 8 (a) (1) makes it an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of their self-organization rights; 8 (b) makes it an unfair labor practice for a union to restrain or coerce employees in the exercise of their right to join or refrain from joining a union, or to cause or attempt to cause an employer to discriminate against an employee, except for nonpayment of dues or initiation fees under a union-security agreement.

5. *Part II, Advertising 1, sections 1-2, 1944 supplement (registration)*

(a) Labor-union representatives soliciting advertising must file a \$5,000 surety bond with the secretary of state conditioned on performance of contract. Violation is a misdemeanor.

(b) N. L. R. A. contains no like provision.

6. *Section 912 (blacklisting)*

(a) Preventing employment by blacklisting is a misdemeanor.

(b) N. L. R. A. contains no like provision; however, such a labor practice would be considered unfair under section 8.

7. *Section 3496 (strikebreakers)*

(a) Importation of men for the suppression of domestic violence is unlawful, and aiding thereof is a felony.

(b) N. L. R. A. contains no like provision; however, an employer engaging in such an activity would violate section 8 (a) of the act.

8. *Sections 4799 and 4800 (voting)*

(a) Plants must suspend work on general election day or change shifts not later than 4 p. m. to permit employees to vote.

(b) N. L. R. A. contains no like provision.

9. *Chapter 101, section 2, Laws, 1947 (check-off)*

(a) Except by voluntary consent in writing, no person is compelled to pay dues to any union as a prerequisite to, or condition of, or continuance of employment.

(b) Section 302 (c) (4), N. L. R. A., allows an employer to turn over to the union checked-off dues, providing the check-off is voluntary and authorized by written assignment which is irrevocable for not more than 1 year.

*References*

*Date*

2. Constitutional Amendment No. 34 (closed shop and union security).	General election, Nov. 7, 1944.
3. Ch. 101 (bargaining)-----	Feb. 2, 1947.
4. Part II, Criminal Law 7, secs. 1-5 (interference with employment).	1943.
5. Part II, Advertising 1, secs. 1-2 (registration)-----	1941.
6. Sec. 9121 (blacklisting)-----	1905.
7. Sec. 3496 (strikebreakers)-----	1891.
8. Secs. 4799 and 4800 (voting)-----	1907.
9. Ch. 101, sec. 2 (check-off)-----	Feb. 2, 1947.

## CALIFORNIA

References are to California Labor Code

1. *California has no separate labor relations act similar to the N. L. R. A*

2. *"Yellow dog contracts"*

(a) Section 921 declares promises between an employee or prospective employee and his employer or prospective employer unenforceable if either party promises either to belong or not to belong to a labor- or an employer-organization.

(b) The N. L. R. A. contains no similar provision but section 8 (a) (1) and (3) and 8 (b) (1) (B) makes such promises unfair labor practices.

3. *Coercion not to join union*

(a) Section 922 makes it a misdemeanor to coerce or compel any person to enter into an agreement not to join or become a member of a labor organization as a condition of securing or continuing employment.

(b) Section 8 (a) (1) of the act makes it an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of the right to form, join, or assist labor organizations, and section 10 (c) provides for board orders requiring the violator to cease and desist from such unfair labor practice and to take such affirmative action as will effectuate the policies of the act.

4. *Policy—freedom of association and self-organization*

(a) Section 923 declares that, under the policy of the State, negotiation of terms and conditions of labor shall result from voluntary agreement between employer and employees; that individual workmen shall have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of employment, and to be free from interference, restraint, or coercion in these and other activities for the purpose of collective bargaining or other mutual aid or protection.

(b) The policy of the United States as set forth in section 1 of the N. L. R. A. is similar to the above.

5. *Jurisdictional strikes*

(a) Section 1115 declares jurisdictional strikes to be against public policy, and section 1118 defines jurisdictional strike to mean a concerted refusal to perform work for an employer or any other concerted interference with an employer's operation, arising out of a controversy between two or more labor organizations as to which should have the exclusive right to bargain collectively or as to which should have the exclusive right to have its members perform work for an employer.

(b) Section 8 (b) (4) (C) makes a jurisdictional strike an unfair labor practice but is limited to situations where an object thereof is forcing or requiring an employer to recognize or bargain with a particular labor organization if another labor organization has been certified under section 9.

Section 8 (b) (4) (D) also makes a jurisdictional strike an unfair labor practice where an object thereof is forcing or requiring an employer to assign particular work to employees in a particular labor organization.

6. *Enforcement of collective-bargaining agreements*

(a) Section 1126 makes any collective-bargaining agreement enforceable at law or in equity and a breach of such an agreement subject to the same remedies, including injunctive relief, as available on other contracts.

(b) Section 301 (a) of title III provides that suits for violations of contracts between an employer and a labor organization representing employees in an industry affecting commerce may be brought in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to citizenship of the parties.

Sections of the California Labor Code cited in the preceding pages were enacted as follows:

2. "Yellow dog" contracts: (a) Section 921, enacted 1937.

3. Coercion not to join union: (a) Section 922, enacted 1937.

4. Policy—freedom of association and self-organization: (a) Section 923, enacted 1937.

5. Jurisdictional strikes: (a) Sections 1115 and 1118, sections 1115 to 1120, chapter 1288, Laws of 1947.

6. Enforcement of collective-bargaining agreements: (a) Section 1126, chapter 1188, Statutes 1941.

## COLORADO

*State labor relations act, chapter 131, Laws, 1943*

## Section 1. Declaration of policy:

- (1) Recognition of interests of public, employee, and employer.
- (2) Necessity for maintenance of industrial peace.
- (3) Desirability of collective bargaining.
- (4) Protection of right to self-organization and nondiscrimination because of race, color, religion, or sex.
- (5) Establishment by State of standards of fair conduct in industrial relations.
- (6) Criminal acts performed in concert.

*L. M. R. A.*

Title I, section 101: Amends National Labor Relations Act.

Section 1: Declares policy to be elimination of obstructions to free flow of commerce, encouragement of collective bargaining, and protection of right of self-organization.

## Section 2. Definitions:

(1) Persons, (2) employer, (3) employees, (4) representative, (5) collective bargaining, (6) collective bargaining unit, (7) labor dispute, (8) all-union agreement, (9) commission, (10) election, (11) secondary boycott, (12) company union, (13) local union, (14) no controversy under act until dispute arises between bargaining unit and employer, (15) no labor dispute where employer refuses to join union or ceases work in own business.

*L. M. R. A.*

## Section 2. Defines—

(1) Person—same, except for addition of "labor organizations"; (2) employer—includes person "acting as an agent of employer"; also excludes (a) wholly owned Government corporations, (b) Federal Reserve banks, and (c) nonprofit hospitals; (3) employee—excludes (a) persons employed in "agriculture"; (4) representatives—individual or labor organization; (5) labor organization—one which exists to deal with employees as to grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work; (6) commerce; (7) affecting commerce; (8) unfair labor practices; (9) labor dispute; (10) Board; (11) supervisor (those removed from protection of section 2 (3) above); (12) professional employee; (13) agent (authorization or ratification of principal not controlling).

Section 3: (1) Administration of act by industrial commission, (2) annual report, (3) commissioner.

*L. M. R. A.*

Section 3: (a) Continues NLRB, five members; (b) provides for delegation of Board powers; (c) provides for annual report; (d) establishes office of general counsel and defines duties.

Section 4: (a) Authorizes compensation of Board members and appointment of attorneys and legal assistants; (b) provides expenses for Board.

Section 5 establishes principal office in Washington, D. C.

Section 6 empowers Board to promulgate rules and regulations.

Section 4. Right of employees: Self-organization, union membership, collective bargaining.

*L. M. R. A.*

Section 7. Same; added is right to refrain from self-organization and collective activity except to extent that employee may be bound by a union shop or other form of union security contract sanctioned in the act (sec. 8 (8) (3) below).

## Section 5. Representatives and elections:

(1) Unit appropriate; "unit" exclusive representative chosen by majority vote, right of individual presentation of grievances retained.

(2) Representation election provided in any "craft, division, department, or plant."

(3) Inclusion or exclusion of organizations on ballot—commission certifies results, unfair labor practice finding excludes organization from ballot.

(4) Representation petitions—by employer, employee, or representatives, more than one election for cause.

(5) Investigation and determination of eligibility to vote—certified poll list provided.

*L. M. R. A.*

Section 9 (a) : Exclusive representation is provided on vote of majority of employees in appropriate bargaining unit. Provides for individual presentation of grievances and gives bargaining representative right to be present.

Section 9 (b). Appropriate bargaining unit to be determined by Board: (1) Bars units comprised of professional and nonprofessional employees, unless majority of professional employees vote for inclusion; (2) provides for craft severance election; (3) prohibits units including plant guards and rank-and-file employees.

Section 9 (c). (1), (2) Representation and decertification petitions: Permits employers to petition whenever any union claims a majority, and permits employees to petition for certification and decertification of a union or an individual as their bargaining representative; and identity and kind of petition not distinguished and labor organization not denied a place on ballot by reason of an order not issued in conformity with 10 (c) (different policies not applied to affiliated and unaffiliated unions); (3) prohibits second representation election within 1 year of first election; limits eligibility of strikers not entitled to replacement and provides for run-off election; (4) permits consent elections; (5) provides extent of union organization shall not be controlling factor in unit determination.

Section 9 (d) provides for inclusion of transcript of investigation in record.

Section 9 (e) (1), (2) requires 30-percent representation showing as condition to representation and decertification investigation; (3) limits elections to one per year.

Section 9 (f) Registration requirements as condition to investigation, enumerates information required; (g) requires union financial reports; (h) requires filing of non-Communist affidavits.

Section 6 (1). Unfair labor practices by employer:

(a) Interference; (b) domination; (c) discrimination, no prohibition against execution of all-union agreement where three-quarters of employees so vote in a commission-conducted referendum—union must receive any employee as member; (d) refusal to bargain (not deemed to refuse to bargain pending employer petition outcome); (e) entrance into all-union agreement (except as above); (f) violation of bargaining agreement or agreement to accept arbitration award; (g) refusal to accept determination of competent tribunal; (h) discrimination for filing charges or giving testimony; (i) deduction of unauthorized dues; (j) employment of labor spies; (k) blacklisting; (l) commission of crime or misdemeanor in connection with employment relations.

*L. M. R. A.*

Section 8 (a). Unfair labor practices of employers:

(1) Interference with employees.

(2) Domination or interference with labor organization.

(3) Discrimination in regard to hire or tenure of employment to discourage or encourage union membership. Proviso empowers employer to make valid union-shop agreements and protects employees against discrimination for nonunion membership.

(4) Discrimination because of filing charges or giving testimony.

(5) Refusal to bargain collectively.

Section 6 (2). Unfair labor practices of employees:

(a) Coercion or intimidation of other employees in enjoyment of legal rights. (b) Coercion or intimidation of employer to effect interference with other employees.

(c) Violation of collective-bargaining contract.

(d) Refusal to accept determination of competent tribunal.

(e) Promotion of picketing, boycotting, etc., without concurrence of majority in unit.

(f) Hindrance or prevention by mass picketing, intimidation, etc., of lawful work, or obstruction or interference with public highways, etc.

(g) Secondary boycott or prevention of obtaining materials or use of equipment.

(h) Taking or remaining in unauthorized possession of property.

(i) Sit-down strike.

(j) Failure to give strike notice.

(k) Commission of crime or misdemeanor in employment relations controversy.

## (1) Requirement of employment of stand-in employees.

L. M. R. A.

Section 8 (b). Unfair labor practices by labor organizations or agents:

(1) Restraint or coercion of employees or employers.

(2) Causing discrimination for nonmembership in labor organization.

(3) Refusal to bargain collectively (defined sec. 8 (d)).

(4) Strikes and boycotts for enumerated unlawful objects. Proviso recognizes right of employees to refuse to cross picket line of another employer whose employees are engaged in an authorized strike.

(5) Requirement of excessive fees.

(6) Featherbedding.

Section 6 (3). Prohibition of acts against employers and employees intending to influence outcome of labor relations controversy.

L. M. R. A. No similar provision.

Section 7. What are not unfair labor practices:

(1) Refusal by employer to grant closed shop or all-union agreement.

(2) Freedom of speech, proviso as to lawful strike (authorized by majority vote).

NOTE.—Section 6 (2) (e) and proviso of section 7 (2) were declared inoperative by the Colorado Supreme Court (*AFL v. Reilly*).

L. M. R. A.

Section 8 (c) guarantees freedom of expression of views or opinions and dissemination thereof in absence of threats.

Section 8. Prevention of unfair labor practices:

(1) Submission of controversy to commission; proviso as to court action without exhaustion of remedies within act.

(2) Complaint, service additional parties, answer, hearing; subpoenas; penalty for refusal or failure to testify; witness fees.

(3) Record of proceedings (governed by rules of evidence prevailing in courts of equity; burden of proof—clear and satisfactory preponderance of competent evidence).

(4) Determination by commission.

(5) Appeal to commissioner; review of proceedings.

(6) Action by commissioner on review of record.

(7) Procedure in noncompliance cases.

(8) Appeal to county district court.

(9) Nonprejudicial irregularities or errors in commission proceeding to be disregarded by court.

(10) Court proceedings as stay of commission's order.

(11) Expeditious hearing.

(12) Substantial compliance sufficient.

(13) Right to proceed limited to 1 year.

(14) Initiation of proceedings by commission.

(15) Regulation of picketing to prevent riots, disturbances, assaults, etc.—injunctive relief.

L. M. R. A.

Section 10. (a) Prevention of unfair labor practices: Provides for ceding jurisdiction to State agencies. (b) Provides for investigation of unfair-labor-practice charge and issuance of complaint; time limitation (6-month rule); observation of rules of evidence applicable in the United States district courts. (c) Provides for taking of testimony and findings based on preponderance of evidence; authorizes issuance of cease-and-desist orders; provides back-pay liability for both employers and unions; empowers Board to make domination findings and issue disestablishment orders against affiliated as well as unaffiliated union; prohibits reinstatement if employee discharged for cause; provides intermediate report of trial examiner to be Board decision where no exceptions filed. (d) Provides for modification or amendment of orders and findings prior to filing of record.

Section 10. (e)–(i) Provides for court review and enforcement of Board orders. (j) Empowers Board to petition for injunctive relief. (k) Where 8 (b) (4) (D) charges are involved, Board directed to decide jurisdictional dispute, precipitating strike or boycott. (l) Provides priority for petitions for injunctive relief, and issuance of injunction by court; limits issuance of injunction without notice; provides for vacation of injunctions; grants jurisdiction over labor organizations.

Section 9. Authority of commission to promulgate rules, regulations, orders.

L. M. R. A. See section 6 above.

Section 10. Arbitration.

Section 11. Mediation.

#### VOLUNTARY—THEREFORE NOT TREATED

Section 12. Duties of attorney general and district attorneys.

Section 13. Appointment of employer-employee committees.

Section 14. Penalties for interference with Commission.

L. M. R. A. No comparable provisions.

Section 15. Existing employment contracts unaffected by act.

L. M. R. A.

Section 102. Makes act nonretroactive as to matters antedating enactment.

Section 103. Makes act inapplicable to certification or unit determination antedating enactment for 1 year or until end of contract period.

Section 104. Makes act effective 60 days after enactment.

Section 16. No restraining order or injunctive relief shall issue for—

(1) Ceasing or refusing to perform work.

(2) Becoming or remaining member of labor union.

(3) Paying or withholding strike or unemployment benefits, etc.

(4) Lawful aid to person being prosecuted in court action.

(5) Advertising or communicating information as to labor dispute.

(6) Ceasing as an organization to patronize any person with which involved in labor dispute.

(7) Peaceful assembly.

(8) Advising or notifying of intention to perform acts mentioned.

(9) Agreeing to do or not do acts mentioned.

(10) Advising, urging, or inducing, without fraud or violence, acts mentioned.

(11) Acting in concert on ground of unlawful conspiracy.

L. M. R. A. No comparable provisions. Provides when injunctive relief may be sought.

Section 10 (j), (k), (l) above.

(a) Promise to join or remain member of organization.

Section 17. Certain employer-employee relations contrary to public policy, i. e.—

(b) Promise not to so join.

(c) Promise to withdraw therefrom.

L. M. R. A. No comparable provisions.

Section 18. Conflict of laws.

L. M. R. A. Section 15. Conflict with Bankruptcy Act.

Section 19. Separability of provisions.

L. M. R. A. Section 16. Separability clause.

Sections 20 and 21. Dealing with incorporation and failure to incorporate. Declared unconstitutional by Colorado Supreme Court.

Section 22. Civil liability for damages:

(1) Right of action for damages for person injured because of some act of unfair labor practice.

(2) Right of action to person induced to violate contracts.

Section 23. Penalties for violation of act.

L. M. R. A. No similar provision.

Cf. title III, section 301 and section 303.

Section 24. Construction of act:

Preserves right to strike; preserves freedom of speech; preserves right to unemployment benefit.

L. M. R. A.

Section 13 preserves right to strike.

Section 8 (c) preserves freedom of speech.

Section 25. Nonapplicability of other statutes.

Section 26. Repeal of statutes.

L. M. R. A. No comparable provisions.

Section 27. Public interest.

Section 29. Safety clause.

L. M. R. A.

Cf. title I, section 101; title II, section 201, as to policies.

Section 28. Constitutional construction.

L. M. R. A. Section 16, supra.



*State labor relation act separately digested (attached)*

(References below are to Colorado Statutes Annotated, 1935, and Cumulative Supplement thereto, unless otherwise indicated.)

*I. Collective bargaining*

## 1. "Yellow Dog" contracts:

(a) Declared void (ch. 97, sec. 67).

(b) Coercion to prevent unionization prohibited (ch. 97, sec. 65). Penalty provided (ch. 97, sec. 66).

L. M. R. A. Prohibited under section 8 (a) (1) and 8 (a) (3), i. e., declared to be unfair labor practices.

## 2. Right to organize and bargain:

(a) Combination aiding employees not unlawful (ch. 97, sec. 64).

L. M. R. A. Right to organize and bargain collectively as set forth in section 7.

## 3. Above provisions made applicable to specific industries, e. g.:

1. Bituminous coal mining industry (ch. 110, sec. 167 (4) (a) Cum. Suppl.).

2. Cleaning and dyeing trade (ch. 36A, sec. 6 (2), (3), and (4) Cum. Suppl.). Penalties provided.

L. M. R. A. No comparable specific industries named.

*II. Strikes, picketing, boycotts, etc.*

1. Strikes and lock-outs prohibited where industry not affected with a public interest (ch. 97, sec. 32, cum. Suppl.).

Provision for injunction upon application of commission for violation of above (ch. 97, sec. 34).

Penalties provided (ch. 97, sec. 35).

L. M. R. A. Cf. title II, sec. 206: Providing for injunctions where dispute imperils national health or safety.

## 2. Boycott: (a) Unlawful to publish any notice of boycott (sec. 97, sec. 91).

L. M. R. A. No comparable provision.

Section 8 (b) (4) and section 303 (a) and (b) prohibit strikes and boycotts in four specific categories.

3. Unlawful assembly: (a) Assembling to do an unlawful act and refusing to disperse on order a misdemeanor and subject to penalty (ch. 48, secs. 193 and 194).

L. M. R. No comparable provision.

*III. Unfair employment practices*

## 1. Blacklisting made illegal and subject to penalty (ch. 97, secs. 93 and 94).

L. M. R. A. No comparable provision but would be prohibited under section 8 (a) (1) and (3).

2. Notice of strike to prospective employees provided; penalty and damages for violation provided (ch. 97, secs. 71, 72, and 74).

L. M. R. A. No comparable provision.

3. Strikebreaking: Armed guards procured only by permit from governor; penalty provided (ch. 97, sec. 73).

L. M. R. A. No comparable provision.

4. Lock-outs: Prohibited pending investigation of dispute by commission (ch. 97, sec. 32). See II, 1 (above).

## 5. Interference with political activities:

(a) Attempting to influence vote of employees prohibited (ch. 59, sec. 355).

(b) Distribution of political matter to employees and threats to influence votes prohibited (ch. 59, secs. 319 and 320); penalties provided (ch. 59, secs. 355 and 332).

(c) Discouragement of participation in politics of employees prohibited (ch. 97, sec. 75, Cum. Suppl.).

(d) Time off to vote provided (ch. 59, sec. 296).

L. M. R. A. No comparable provision.

Cf. title III, section 304, for restriction on union political activity.

6. Other unfair employment practices: (a) Intimidation: To prevent individual from engaging in any lawful occupation prohibited and penalty provided (ch. 97, secs. 92 and 94).

L. M. R. A. No comparable provision.

Cf. section 8 (a) and (b).

(b) Obtaining labor by false pretenses prohibited and penalty provided (ch. 97, sec. 268).

(c) Bribery in mine employment prohibited and penalty provided (ch. 110, secs. 163 and 162).

L. M. R. A. No comparable provision.

I. 1 (a), 1931, (b), 1921; 2 (a), 1921; 3 (1) and (2), 1937.

II. 1, first citation, 1941; second and third citations, 1921; 2 and 3, 1921.

III. 1, 2, and 3, 1921; 4, 1923; 5 and 6 (and all subsections thereunder), 1921.

## CONNECTICUT

On April 17, 1945, Connecticut enacted a full labor relations statute modeled after the original Wagner Act.<sup>1</sup>

Section 934h, State Board of Labor Relations: This section provides for the creation in the department of labor and factory inspection, the Connecticut State Board of Labor Relations, the board to be composed of three members, appointed by the Governor, with the advice and consent of the general assembly.

Section 935h, agent: The agent is a representative of the board and appointed by it for a term of 4 years, and may be removed by the board only for cause and following a hearing.

His function is to investigate complaints referred to him by the board and any other violations of the act that come to his attention. If the agent finds reasonable ground for any complaint, or considers that there has been or is a violation of the act, he shall issue and serve upon the person complained of, a petition stating the charges and containing a notice of hearing before the board. Conversely, if he considers there has been no violation, he shall report such case to the board, stating his reasons, and recommendations with respect to such case.

Sections 936h and 937h set forth substantially in the same language as the original Wagner Act, the basic rights of employees and denominates 10 specific unfair labor practices which may be committed by the employer and which are substantially the same as those contained in the original Wagner Act.

The act contains no provision covering unfair labor practices on the part of unions against employees.

Section 938h covers election of representatives and follows the same general pattern as that set forth in the original Wagner Act.

Section 939h covers complaint of unfair labor practices and sets forth the procedural requirements with respect to a hearing and the issuance of board orders.

Section 940h relates to the board's enforcement of order. Under this section, the board's orders are enforced through petition by it to the superior court.

Subsection 3 of this section provides that the jurisdiction of the superior court shall be exclusive and final, subject to review by the supreme court of errors on appeal by either party.

Subsection 4 provides for review of the board's order by any person aggrieved.

Section 941h provides for the issuance of subpoenas in aid of the board's investigatory process and enforcement of the same by application of the board to the superior court.

In addition to the Labor Relations Act discussed above, the statutes of Connecticut<sup>2</sup> provide as follows:

### 1. *Yellow-dog contracts*

It shall be unlawful for any employer to make it a condition of remaining in employment that his employee shall not join a labor union or organization.

### 2. *Picketing and boycotting*

*Picketing of homes.*—No person shall engage in picketing the home or residence of any individual, unless the same is adjacent to, in the same building as, or on the same premises on which such person was employed and which employment is involved in a labor dispute.

The penalty for violation is a fine of not more than \$200, imprisonment for not more than 6 months or both. (Public Act 123, acts 1947.)

### 3. *Regulation of labor unions, as such*

There are no laws regulating labor unions, as such, in the State of Connecticut.

<sup>1</sup> 1945 Supplement to the General Statutes, secs. 933h through 946h.

<sup>2</sup> General Statutes, revised and supplemented, 1930.

#### 4. *Anti-injunction laws*<sup>3</sup>

Connecticut has enacted an anti-injunction law similar to the Norris-LaGuardia Act, the purpose of which is to protect labor unions from unrestrained issuance of injunctions in industrial controversies. As in the Norris-LaGuardia Act, the Connecticut statute severely restricts its courts in the issuance of such injunctions.

#### 5. *Responsibility of labor unions*

Connecticut retains the old law of unincorporated associations insofar as unions are concerned, and provides that no labor organization shall be liable for the unlawful acts of individual officers, members, or agents, except on proof of actual participation or ratification of such acts.

This provision is completely at variance with section 2 (13) of the Taft-Hartley Act, which states that, in determining whether or not a person is acting as an agent of another, the question of whether the specific acts performed were actually authorized or subsequently ratified, shall not be controlling.

#### 6. *Blacklisting or otherwise hindering employment*

The maintaining or publishing of a blacklist containing the names of employees for the purpose of preventing them from securing employment is made unlawful and punishable by a fine of \$50 to \$200 sec. 6210 of the Revised Statutes of 1930).

#### 7. *Surveillance organizations*

It shall be unlawful for anyone to belong to, or support, any organization whose purpose is to supply detailed information and records of employment, unless such information and records are open to public inspection of the person so investigated. This section contains the following exceptions: (1) institutions maintained for humanitarian purposes; (2) for vending employment; (3) charitable and religious organizations; (4) organizations solely furnishing financial standings; and (5) those furnishing personal and business credit reports (id., sec. 6211).

#### 8. *Interference with political activities*

Any employer who attempts to influence voting by threats of withholding, or promise of employment, or dismisses an employee on account of his voting, is subject to a fine of not less than \$100, nor more than \$500, or imprisonment of not less than 6 months, nor more than 12, or both (id., 661).

#### *Statute*

Anti-injunction law (sec. 1420e General Revised Statutes,  
1939 supp.)-----

*Date*  
Enacted 1939

### DELAWARE

Delaware has a labor relations act found in chapter 196, Laws of 1947, sections 1 through 34.

#### *Section 1 Definitions*

(a) Person: Same as section 2 (1) of the L. M. R. A. but does not include labor organizations or trustees in bankruptcy.

(b) Employer: One who employs two or more employees, including any person acting on his behalf within the scope of his authority express or implied.

Section 2 (2) of the L. M. R. A. includes as an employer any person acting as an agent of an employer directly or indirectly.

(c) Employee: Any person working for hire in a nonexecutive or nonsupervisory capacity, including any whose work has ceased because of a current labor dispute and (1) who has not refused to return to work at the end of the dispute (2) who is guilty of an unfair labor practice (3) who has not found equivalent work (4) who has not been absent a time longer than the dispute period and where there has been a permanent replacement. Excluding domestics, farm employees, and those working for parent or spouse.

Section 2 (3) of the L. M. R. A. includes any employer, including those not working because of a current labor dispute and who have not obtained equivalent employment. Excludes inter alia agricultural laborers, domestics, individuals employed by parent or spouse.

<sup>3</sup> Sec. 1420e, 1939 supp.

(d) Labor organization: Same definition as contained in section 2 (5) of the L. M. R. A.

(e) Labor organizer: Any person soliciting membership in a labor organization.

The L. M. R. A. has no comparable section.

(f) Business agent: Any person who acts or attempts to act for any "labor union" with regard to (1) membership, authorization cards, work permits, etc., or (2) in negotiation or settlement of any grievance or/and a demand concerning hours, wages, and other working conditions of employees.

The L. M. R. A. has no comparable section.

(g) Representative: Duly authorized agent of a collective-bargaining unit. Section 2 (4) of the L. M. R. A. includes among representatives any individual or labor organization.

Section 9 (a) of the L. M. R. A. provides that the representative selected by the majority of the employees in an appropriate unit shall be the exclusive representative of all the employees in such unit.

(h) Supervisory employees: Same definition as contained in section 2 (11) of the L. M. R. A., but also deems the individual a supervisor if he has authority with regard to employee's wages and factors pertaining to wages.

(i) "Working agreement" or "Collective bargaining agreement": An agreement between employer and employees in any business with respect to hours, wages, or other conditions of employment including extensions or renewals.

The L. M. R. A. has no similar provision.

(j) Collective Bargaining: Negotiation between employer and representative of a majority of his employees in the unit with respect to hours, wages, and other conditions of employment.

Section 8 (d) of the L. M. R. A. defines collective bargaining as the mutual obligation of the employer and representative of the employees to meet and confer in good faith, and the execution of a written contract if requested and agreement reached. This does not compel agreement or the making of a concession. Also contains a proviso detailing the procedure where a collective bargaining agreement is in effect.

(k) Collective bargaining unit: Organization selected by secret ballot by a majority vote of employees of one employer. A majority of such employees in a single craft, division, department or plant shall have the right to constitute their own unit. After an election so to do, two or more units may bargain through the same representative.

See reference to section 9 (a) of the L. M. R. A. in (g) above.

Section 9 (b) of the L. M. R. A. provides that the appropriate unit shall be the employer unit, craft unit, plant unit or subdivision, provided \* \* \* that a craft unit may not be deemed inappropriate where a different unit has been established unless a majority vote against the separation.

(l) Labor dispute: Controversy between employer and his employee concerning terms, tenure, or conditions of employment or representation, or negotiation. It shall not be a labor dispute (1) unless the proximate relation of employer and employee must exist; (2) if the employer refuses to enter into an "all union agreement"; (3) where a jurisdiction dispute between unions exists, or where two unions dispute over representation and employer is ready to bargain with either; (4) where an employee is discharged for cause, except if in violation of an agreement; (5) when an employer refuses to join a union or cease working at his own business.

Section 2 (9) of the L. M. R. A. includes as a labor dispute any controversy concerning terms, tenure, or conditions of employment, or representation, or negotiation regardless of whether the disputants stand in the proximate relation of employer and employee.

(m) All union agreement: Agreement between employer and a union representing all or some of his employees requiring all the employees to be union members as a condition of employment.

The L. M. R. A. has no similar provision except that a union security agreement is permitted under the proviso of section 8 (a) (3).

(n) Election: Proceeding at a union meeting whereby members, by secret ballot select a collective-bargaining unit or some other purpose specified by the act.

The L. M. R. A. has no similar provision but section 9 (c) provides that if a question of representation exists, the Board shall direct an election by secret ballot.

(o) Secondary boycott: Includes causing or threatening to cause injury to a third party to a labor dispute, whereby the boycott is continued to aid the dis-

pute by (1) withholding patronage, labor, or other beneficial business intercourse; (2) picketing; (3) refusal to handle, use, or work on materials, equipment, or supplies; or (4) any other unlawful means requiring him to join in coercing or damaging another, or to compel the party with whom such labor dispute exists to comply with certain demands.

The L. M. R. A. contains no comparable provision. However, section 8 (b) (4) makes certain boycotts union unfair labor practices: To strike, or induce or encourage a strike or concerted refusal where an object is (A) to force an employer to join a labor or employer organization, or any employer or other person to cease dealing in the products of another, or to cease doing business with another; (B) to force an employer to recognize or deal with a labor organization unless it has been certified; (C) to force an employer to recognize a labor organization where another has been certified; (D) to force an employer to assign work to employees in one union rather than to another. Section 303 provides for money damages.

(p) Strike: A cessation of work by employees to force compliance from the employer. Includes a work stoppage due to expiration of working agreement.

Section 501 (2) of the L. M. R. A. includes any strike or other concerted stoppage by employees (including stoppage due to expiration of bargaining agreement) and any concerted slow-down or interruption of operations by employees.

### *Section 2. Unfair labor practices*

This section provides it shall be an unfair labor practice for an employee individually or in concert with others:

(a) Coercion of employee: To coerce or intimidate an employee in the enjoyment of his legal rights or his family, picket his domicile, or injure his person or property, or his family or to attempt to do any of these acts.

Section 8 (b) 1 (A) of the L. M. R. A. makes it a union unfair labor practice to restrain or coerce employees in the rights guaranteed by section 7 hereof.

(b) Coercion of discrimination: To coerce, intimidate, or induce an employer to interfere with legal rights of his employees, or to engage in an act which would constitute an unfair labor practice.

Section 8 (b) (2) of the L. M. R. A. makes it a union unfair labor practice to cause or attempt to cause an employer to discriminate against an employee in violation of section 8 (a) (3).

(c) Violation of union contract: To violate a collective bargaining agreement.

The L. M. R. A. has no comparable provision except that section 8 (d) provides procedures in the event any party to a collective-bargaining agreement desires to terminate or modify the same. Violation thereof may constitute an employer or union unfair labor practice.

(d) Refusal to recognize awards: To refuse or fail to recognize the final determination of a dispute made by any tribunal of competent jurisdiction.

The L. M. R. A. has no comparable provision.

(e) Strikes, etc., without majority vote: To cooperate in, promoting or inducing picketing, or other strike activity unless the strike has been called by a majority of the appropriate unit by secret ballot.

The L. M. R. A. has no comparable provision. However, the discharge of participants in such a strike would not be proscribed by section 8 (a) (3).

(f) Prevention of lawful work: To hinder or prevent lawful work by mass picketing, threats, intimidation, coercion, force; prevent ingress or egress; prevent free and unobstructed use of the public highways and transportation facilities; or to picket or obstruct ingress and egress of home of an employee, employer, or his agents.

The L. M. R. A. has no comparable section. However, such activities if performed by a labor organization would probably be violative of section 8 (b) (1). Further, a discharge for such activities would probably not be violative of section 8 (a) (3).

(g) Secondary boycott: To engage in secondary boycott, or to prevent by force, coercion or sabotage the obtaining, use, or disposition of materials, equipment or services, or to contrive or conspire to do so.

The L. M. R. A. has no comparable section. However, section 8 (b) (4) makes certain boycott activities union unfair labor practices. (See Definitions, 10 above.)

(h) Unlawful possession of property: Unlawfully seize employees property, or to attempt operations except by leaving in orderly manner to strike.

The L. M. R. A. has no comparable section. However, employees discharged for such activity would not be an employer unfair labor practice.

(i) Slow-down and sit-down strikes: To engage in a slow-down or sit-down strike on the employer's premises.

The L. M. R. A. has no comparable section. A discharge for these activities may not be violative of 8 (a) (3).

(j) Notice of strike: To fail to give notice of intention to strike required by the act.

The L. M. R. A. has no comparable section.

(k) Crimes or misdemeanors: To commit a crime or misdemeanor in connection with a controversy as to employment relations.

The L. M. R. A. has no comparable section.

(l) Demand for "stand-in" employees: To demand or require "stand-ins" or "stand-bys," or pay for any employee not required by the employer.

Section 8 (b) (6) makes featherbedding a union unfair labor practice.

(m) Causing prohibited acts: To do or cause to be done any act prohibited herein on behalf of employers or employees, or to influence the outcome of an employment-relations controversy.

The L. M. R. A. has no comparable section.

### *Section 3. Fair labor practices*

(a) Refusal by employer to grant a closed-shop or all-union agreement.

The L. M. R. A. has no comparable section. However, closed shops are prohibited by operation of section 8 (a) (1) and (3).

(b) Freedom of employer or employee to express, declare, and publish their views and proposals concerning any labor relationship.

Section 8 (c) of the L. M. R. A. provides that the expressing of any views, argument, or opinion containing no threat of reprisal or promise of benefit is protected.

### *Section 4. Unlawful labor practices*

(a) It shall be unlawful by force, threats, or violence to compel a person to join or refrain from joining a labor organization, to interfere with his right to work, or pursue employment by (1) the use of profane, indecent, or threatening language to that person or members of his family; (2) following or intercepting such person to or from bus, work, or lodging; (3) photographing such person without consent; (4) menacing, threatening, coercing, or intimidating such person; (5) assault and battery; (6) loitering or patrolling his home, or vicinity.

The L. M. R. A. has no comparable section. Section 8 (a) (1) and 8 (b) (1) makes such acts by employer and union unfair labor practices, respectively, if done by each.

(b) Prohibits check-off except upon direction of a court of competent jurisdiction. No check-off provision may be contained in a collective-bargaining agreement.

Section 302 (c) (4) permits check-off payments upon written assignment from the employee irrevocable for not more than 1 year, nor the date of the applicable agreement whichever is sooner.

### *Section 5. Unlawful strikes*

No strike lawful except if authorized by the majority of the unit by secret ballot at a meeting for that purpose.

The L. M. R. A. contains no comparable provision. (See sec. 1 (p) above.) Section 13 of the L. M. R. A. provides that nothing therein shall interfere with, impede, or diminish the right to strike, or to affect the limitations or qualifications on that right.

### *Section 6. Secondary boycotts*

Makes it unlawful to loiter, beset, or patrol a place of business in connection with a secondary boycott to influence others not to trade with, work for, or do business with such concern so that the concern will be damaged and thereby induced or coerced to do something they are entitled to refrain from doing, or vice versa.

The L. M. R. A. has no comparable provision. However, section 8 (b) (4) has set forth certain specific boycotts. (See sec. 1 (o) above.)

### *Section 7. Arbitration*

Provides for voluntary arbitration of labor disputes.

### *Section 8. Enforcement of union contracts*

Court has jurisdiction in suits for violation of or to enforce collective bargaining agreements.

Labor organizations (a) may be sued or sue as an entity provided any money judgment enforceable only against the labor organization, and against any member thereof appearing therein or served with a summons. Any employee participating in an unlawful strike may be sued by the employer for damages.

Upon cause, temporary or permanent injunctions or restraining orders may issue against the labor organizations, its officers and agents.

Section 301 of the L. M. R. A. provides that labor organizations may sue and be sued. Money judgment recovered against the union enforceable only against it as an entity. To determine agency, the question of whether specific acts performed were authorized or ratified shall not be controlling.

#### *Section 9. Injunctive relief.*

Unfair, or unlawful labor practices, unlawful strikes or secondary boycotts may be enjoined. Also arbitration agreements may be enforced.

Section 206-210 of the L. M. R. A. provides that an injunction may be obtained in a strike or a lock-out threatening the national health or safety.

#### *Section 10. Regulation of picketing.*

The court upon proper showing shall limit picketing tending to riot, disturbance, or destruction of property or the public peace as to number of pickets, distance apart, and such other limitations as the court may prescribe.

The L. M. R. A. has no comparable provision but a discharge for such picketing may not be violative of section 8 (a) (3) of the act.

#### *Section 11. Registration of labor organization.*

Every labor organization through its president or other authorized officer shall file annually with the Secretary of State the following information: name, address, officers, companies it deals with, industries it deals with, initiation fees, annual dues, assessments, limitations on membership, number of paid up members, date of last election of officers, method of election, tally of votes, date of last financial report furnished members and method of distribution. Also a copy of constitution and bylaws as amended.

Section 9 (f) of the L. M. R. A. requires that a labor organization, as a prerequisite to using the processes of the Board, file a statement with the Secretary of Labor containing: name and address, names, titles, and compensation of officers or agents receiving more than \$5,000, manner of electing officers, initiation fees, regular dues, a detailed statement concerning limitations on membership, elections of officers and stewards, calling of meetings, levying assessments, imposition of fines, authorization for bargaining, ratification of contracts, authorization for disbursement of funds, audit, participation in insurance or other benefits, expulsion of members. Also a report showing its receipts and disbursements and total assets and liabilities at the end of the fiscal year, and that a copy was furnished to all its members.

Section (g) of the L. M. R. A. requires that the above-mentioned reports shall be brought up to date annually and that the financial reports be filed annually and furnished to its members annually.

#### *Section 12. Reports*

Every labor organization shall file a full financial report under oath with the Secretary of State in January and July of each year showing, inter alia, compensation of officers or any payments made to them and to any other person.

See sections 9 (f) and (g) of the L. M. R. A. above.

#### *Section 13. Working agreements*

All labor unions shall forward copies of all present or future working agreements to the Secretary of State.

Section 211 (a) of the L. M. R. A. requires that the Department of Labor shall keep a file of all available collective-bargaining agreements.

#### *Section 14. Enforcement of sections 11, 12, and 13*

Failure to comply with sections 11, 12, and 13 shall make the union officers ineligible to reelection for one year. The attorney general shall have the duty to seek injunctive relief to enforce compliance.

The L. M. R. A. has no comparable provisions. However, a labor organization not in compliance with sections 9 (f) and (g) cannot avail itself of the Board's processes.

#### *Section 15. Inspection of registration data, reports, and working agreements*

The above reports and working agreements are confidential but open to certain Government officials and investigation bodies. Section 211 (a) of the

L. M. R. A. provides that the secretary of labor shall prescribe conditions of inspection except that no specific information submitted in confidence shall be disclosed.

*Section 16. False registrations and reports*

Filing of a false registration or report is punishable by fine and imprisonment, and individual shall be ineligible to hold any office in any union for 5 years.

The L. M. R. A. has no comparable provision.

*Section 17. Constitution and bylaws*

Shall provide for (a) representative form of government; (b) term of office of all officials not more than 1 year. Any provision thereof limiting (a) the working conditions or work to be performed by union members, (b) the use of labor-saving devices shall be null and void.

The L. M. R. A. has no comparable provision.

*Section 18. Initiation fees and dues*

Dues and initiation fees shall not be increased nor a levy assessed except by majority vote of the membership. No initiation fee shall exceed \$25.

The L. M. R. A. has no similar provision.

*Section 19. Meetings of unions*

Regulates the method of holding meetings; notices necessary; the method of electing officials of the union; quorum equals a majority; invalidation of election due to coercion or threats which is subject to review by the court; method of determining strike vote and announcement of result; method of tallying votes; notice of strike vote plainly given to each member; employer privilege of attending meeting to state his proposals, and strike vote invalid if employer refused admission.

The L. M. R. A. has no comparable section.

*Section 20. Right to work and right to vote at union meetings*

Makes unlawful the demand or collection by a labor union of any sort of a fee as a condition for working from any nonunion member. No charge made or fee collected for working, but union may collect reasonable initiation fees, dues, and assessments provided the person paying the same has the right of notice of meetings and to vote.

Section 8 (b) (5) of the L. M. R. A. makes unlawful the requirement of employees covered by a union security agreement to pay, as a condition to becoming a union member, a fee deemed excessive by the Board.

*Section 21. Who may not be officials of unions*

No alien, Communist, or person convicted of a felony shall serve as an officer or agent of a labor union.

The L. M. R. A. has no comparable section.

*Section 22. Unions not to conduct employment services*

No union shall conduct an employment service, hiring hall, etc., to coerce, intimidate, or direct employers to employ persons, or to otherwise interfere with the employer's right to employ.

The L. M. R. A. contains no comparable section. However, such practices by union may be unlawful under section 8 (b) (2) of the act.

*Section 23. Political contributions*

Unlawful for a labor union to contribute to or solicit funds for any political party or candidate for public office.

Section 304 of the L. M. R. A. prohibits expenditure of funds by labor organization for political activities.

*Section 24. Books of account*

Duty of a labor organization to keep accurate books of account open to inspection by members of the union and State officers on demand.

The L. M. R. A. contains no similar provision.

*Section 25. Suspension or expulsion of members*

No union member shall be suspended or expelled except for good cause and upon a fair and public hearing subject to review by the courts.

The L. M. R. A. contains no similar provision. However, the proviso to section 8 (a) (3) makes it an employer unfair labor practice to discriminate against an employee where a union-security agreement exists if the employer has reasonable



grounds to believe that the employee's membership was denied or terminated on other grounds than failure to tender dues and initiation fees. Section 8 (b) (2) makes it a union unfair labor practice for a union to cause or attempt to cause the employer to discriminate against the employee under those conditions.

*Section 26. Members of armed forces*

Employee union member, not able to pay dues, fees, or assessments because of service in the armed forces, shall not be required to pay same as a condition of reinstatement.

The L. M. R. A. contains no similar provision. However, discrimination against an employee by a union or employer because of nonmembership due to failure to pay dues or fees shall not be unlawful under sections 8 (a) (3) and 8 (b) (2).

*Section 27. Penalties*

Where no penalty provided, a violator of any section shall be guilty of a misdemeanor subject to fine or imprisonment or both.

The L. M. R. A. contains no similar provision.

*Section 28. Civil penalties and liability for damages*

The unions and individuals violating the above sections are subject to suit and liable in damages. Also provides triple damages to a person compelled to violate a contract of employment, or services or material.

Section 301 of the L. M. R. A. provides that unions may sue or be sued for violation of contracts and be liable in damages therefore.

*Section 29. Existing contracts unaffected*

Saves all existing contracts.

Section 102 of the L. M. R. A. also saves existing collection bargaining agreements.

*Section 30. Certain relations between employer and employee deemed contrary to public policy*

Makes all yellow-dog contracts unlawful.

The L. M. R. A. contains no similar provision but section 8 (a) (1) and (3) prohibits such contracts.

*Section 31. Construction of this act*

Except as specifically stated nothing herein shall be construed (a) to interfere with the right of individuals to work or to strike.

Section 13 of the L. M. R. A. provides that nothing except as limited therein shall interfere with, impede, or diminish the right to strike.

(b) An unlawful invasion of the right of free speech or peaceful assembly.

Section 8 (c) of the L. M. R. A. provides that no expression of views, argument, or opinion shall constitute or be evidence of an unfair labor practice.

*Section 32. Constitutional construction*

The provisions of the act are severable.

*Section 33. Exemption*

Act shall not apply to carrier, employer, or labor dispute coerced by the Federal Railway Labor Act.

Section 2 (2) of the L. M. R. A. contains the same provision as to employer.

*Section 34. Persons excluded*

Act shall not apply to those persons included in the Railway Labor Act.

Section 2 (3) of the L. M. R. A. contains the same provision as to employees of an employer under the Railway Labor Act.

## FLORIDA

Florida does not have a separate labor relations act similar to the National Labor Relations Act. Listed below are several statutes and one constitutional provision which relate to particular phases of labor relations. Cross references to the Labor-Management Relations Act of 1947 are also set forth below.

### SECTION 12. DECLARATION OF RIGHTS

#### STATE CONSTITUTION

The section of the State constitution provides, in part, that "the right of persons to work shall not be denied or abridged on account of membership or non-

membership in any labor union." Under this provision, agreements providing for closed shops, union shops, or any other forms of union-security agreement whereby membership in a union is made a condition of employment, are illegal. The Federal statute, in section 8 (a) (3) bars closed-shop contracts but permits union-shop agreements under specified conditions. Discharges for nonmembership even under valid union-shop agreements, however, are limited to situations where the employee has not paid initiation fees or dues uniformly required of all members.

#### PUBLIC UTILITIES ARBITRATION LAW

This Florida statute provides for compulsory arbitration of all labor disputes in public-utility industries (electric power, light, heat, gas, water, communications, and transportation services). Strikes and lock-outs in such situations are prohibited. Sections 206 to 210 of the Federal statute provide for temporary injunctions in national emergency situations pending investigation by a board of inquiry. Thus, while strikes or lock-outs may be postponed under the Federal statute, such activities are not prohibited.

#### AN ACT TO REGULATE THE AFFAIRS OF LABOR UNIONS

This Florida statute is expressly designed to regulate the activities and affairs of labor unions, their officers, agents, organizers, and other representatives. Unlike the Federal statute, this statute regulates the internal affairs of unions, and employers, their activities and affairs are not covered.

Section 4 of the Florida statute provides for the licensing of union business agents who are required to be citizens and residents of the United States for a period of 10 years prior to application and persons of good moral character. No license is granted unless, in the opinion of a majority of a 3-man board set up under the statute, it is required by the public interest. Section 10 provides for the revocation of such licenses for cause. The Federal statute does not contain such licensing requirements.

Section 5 of the Florida statute provides that labor unions shall not charge an initiation fee in excess of \$15 unless a fee in excess of this amount was in effect on January 1, 1940. No fixed limitation on initiation fees is contained in the Federal statute but section 8 (b) (5) makes it an unfair labor practice for unions to charge initiation fees which the Board finds excessive or discriminatory under all the circumstances.

Section 6 of the Florida statute requires unions operating in Florida to file annual reports which shall set forth the name and address of the union and the names and addresses of its officers and business agents. Section 7 requires unions to keep accurate books of account and provides that members shall have the right of inspection at reasonable times. Comparable sections in the Federal statute are 9 (f) and (g), which sections (under pain of loss of statutory benefits) require the filing by unions of annual reports with the Secretary of Labor and the furnishing of financial reports to members of the union.

Section 9 of the Florida statute consists of 13 subsections in which specified acts and activities are made unlawful.

Subsection 1 makes it unlawful for a person to interfere with or prevent the right of franchise of any member of a labor organization. The right of franchise shall include the right of an employee to make a complaint, file charges, or give testimony concerning violations of the statute, petition the union regarding intra-union grievances, and the right of free petition, lawful assemblage, and free speech. The Federal statute contains no exact counterpart to this subsection. Section 8 (a) (4) makes it an unfair labor practice for an employer to discharge or discriminate against an employee because he has filed charges or given testimony under the act. Section 8 (c) of the act adopts the negative approach to free speech protection, providing that the expressing of views, argument, or opinion, absent threat of reprisal, force, or promise of benefit, shall not constitute an unfair labor practice.

Subsection 2 of section 9 of the Florida statute makes it unlawful to prohibit or prevent any election of officers of any labor organization. No similar prohibition is contained in the Federal statute. Subsection 3 makes it unlawful to participate in any strike, walkout, or cessation of work without the same being authorized by a majority vote of the employees to be governed thereby, provided that nothing in the section shall be construed to prohibit any person from terminating his employment of his own volition. Subsection 4 specifies that elections held under subsection 3 shall be by secret ballot. Section 209

of the Federal statute provides for a secret ballot of employees to be conducted by the Board prior to strike action in so-called national emergencies situations only. The vote is conducted on the question as to whether employees wish to accept the final offer of settlement of their employer. Protection of the employee's right to quit his job of his own volition will be found in section 502 of the Federal statute.

Subsection 5 of section 9 of the Florida statute makes it unlawful to charge, receive, or retain dues, assessments, or other charges in excess of or not authorized by constitution and bylaws of any labor organization. Comparable sections in the Federal statute will be found in sections 8 (b) (2) and (5) and section 8 (a) (3). Subsections 6, 7, and 8 of section 9 of the Florida statute are not comparable to any section of the Federal statute. Subsection 6 makes it unlawful to act as a business agent without a license. Subsection 7 makes it unlawful to solicit membership for or act as representative of a labor organization without authority. Subsection 8 makes it unlawful to make any false statement in an application for a license.

Subsection 9 of section 9 of the Florida statute makes it unlawful for any person to seize and occupy property unlawfully during the existence of a labor dispute. This type of activity is not specifically prohibited by Federal statute. Such activity, however, is violative of section 8 (b) (1) (A) and employees who indulge therein may be discharged by the employer without right of reinstatement.

Subsection 10 of section 9 of the Florida statute makes it unlawful for any person to cause any cessation of work in jurisdictional disputes between labor organizations. A similar provision will be found in section 8 (b) (4) (D) of the Federal statute which makes it an unfair labor practice for a labor organization or its agents to engage in or induce or encourage employees to strike in jurisdictional disputes unless the employer is failing to conform to an order or certification of the Board. (See also sec. 10 (j) [Temporary injunctions], Sec. 10 (k) [Empowering the Board to hear and determine jurisdictional disputes where a charge has been filed], subpart E of the statements of procedure [Implementing sec. 10 (k)], and sec. 303 of the Federal statute providing for suit for damages by employers against labor organizations in such situations.)

Subsection 11 of section 9 of the Florida statute makes it unlawful for any person to coerce or intimidate any employee in the enjoyment of his legal rights including those guaranteed in section 3, or to intimidate his family, picket his domicile, or injure the person or property of such employee or his family. With the exception of the ban on picketing the domicile of an employee, the prohibitions of this section are covered in the Federal statute by the broad provisions of section 8 (b) (1) (A). Picketing the domicile of an employee does not appear to be illegal, in and of itself, under the Federal statute although such a ban was proposed in the House bill as part of section 12.

Subsection 12 of section 9 of the Florida statute makes it unlawful for any person to picket beyond the area of the industry within which a labor dispute arises. The intent of the legislature in enacting this subsection is not clear, but it seems probable that it was intended chiefly to cover secondary boycott situations (see secs. 8 (b) (4) (A), (B), and (C) as well as sec. 303 of the Federal statute).

Subsection 13 of section 9 of the Florida statute makes it unlawful to engage in picketing by force and violence and to picket in such manner as to prevent ingress and egress to and from any premises or to picket other than in a reasonable or a peaceful manner. The Federal statute contains no specific ban on mass picketing but such activity by labor unions and their agents is clearly violative of section 8 (b) (1) (A). Individual employees who engage in such activity are subject to discharge by the employer and do not have reinstatement rights.

Section 11 of the Florida statute provides that labor organizations may sue and be sued in their commonly used names and provides that judgment against a union may be enforced against the common property only. Comparable provisions will be found in section 301 of the Federal statute.

Section 13 of the Florida statute provides that except as specifically provided in the statute, nothing shall be construed so as to interfere with the right to strike or the right of individuals to work. This section also provides that nothing in the statute shall be construed to invade unlawfully the right to freedom of speech. Similar protection of the right to strike is found in the Federal statute in section 13. Similar protection of the right of free speech will be found in section 8 (c) of the Federal statute.

Section 14 of the Florida statute provides that any person or labor organization violating the statute shall be guilty of a misdemeanor and be punished by a fine

not exceeding \$500 or imprisonment for 6 months, or both. Section 15 of the Florida statute exempts all railway labor organizations and members thereof from all provisions of the act so long as they are regulated by Federal law. Similar exemptions will be found in the Federal statute in sections 2 (2) and 2 (3).

### SECTION 3, CHAPTER 21968, LAWS, 1943

*Concerted activities.*—This declares that employees shall have the right to engage in concerted activities for the purpose of collective bargaining or other mutual aid and protection. The right to refrain from engaging in such concerted activities is not expressed but is implicit in the section. Under the Federal statute, protection for such activities will be found in section 7. The right to refrain from such activities under the Federal statute is limited by the provisions of section 8 (a) (3) permitting union-shop agreements under certain circumstances.

### SECTION 351.20, FLORIDA STATUTES

*Blacklisting.*—Blacklisting of an employee by an employer is made unlawful by this section. Under the Federal statute, blacklisting is not specifically prohibited. Under some circumstances such activities of an employer may be considered violative of section 8 (a) (3).

<i>Statute</i>	<i>Date</i>
1. Section 12—State Constitution (Declaration of Rights)-----	Effective Nov. 7, 1944
2. Public Utilities Arbitration Law (Section 453.18, 1947 Supp.)-----	Effective July 1, 1947
3. Act to Regulate Labor Unions-----	Effective June 10, 1943

### GEORGIA<sup>1</sup>

Georgia has no separate labor relations act similar to the National Labor Relations Act.

#### RIGHT TO ORGANIZE AND BARGAIN

##### *Bargaining rights*

Nothing in the powers of arbitration and mediation given to the commissioner of labor shall limit the employee's right to bargain collectively (Act No. 333, law of 1937).

##### *Interference with right to join or not join a union*

It is unlawful for any person, acting alone or in concert with others, to compel any person to join, or refrain from joining, any labor organization, or to strike, or refrain from striking, against his will by any threatened or actual interference with his person, immediate family, physical property, or by any threatened or actual interference with the pursuit of lawful employment by such person, or by his immediate family. Violations are made a misdemeanor (Secs. 4, 6, Act No. 141, Law of 1947).

Section 7 of the Taft-Hartley Act grants the right to employees to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining, or other mutual aid or protection. This section also provides that employees shall have the right to refrain from any or all such activities, except insofar as that right may be affected by the union-security provision of section 8 (a) (3). Section 8 (a) (1) protects the individual from interference, restraint, or coercion in the exercise of such rights insofar as an employer is concerned.

Section 8 (b) (1) A protects such rights against restraint or coercion on the part of labor organizations or their agents.

#### CLOSED SHOP AND UNION-SECURITY LIMITATIONS

Georgia has enacted an anti-closed-shop law, which, in substance, provides that no individual shall be required as a condition of employment, or continuance of employment, to be or remain a member or an affiliate of a labor organization, or to refrain from membership in or affiliation with a labor organization.

<sup>1</sup> References are to the Code of Georgia, 1933, and Sessions Laws, unless otherwise indicated.

Nor shall any individual be required, as a condition of employment, or of continuation of same, to pay any fee, assessment, or other sum of money whatsoever to a labor organization (Act No. 140, Laws of 1947, approved and effective March 27, 1947).

Georgia thus outlaws even the union-security provision contained in the proviso to section 8 (a) (3) of the Taft-Hartley Act.

#### PICKETING AND BOYCOTTING

##### *Mass picketing is unlawful*

Mass picketing in connection with a labor dispute is unlawful and constitutes a misdemeanor. (Secs. 3, 6, Act No. 141, Laws of 1947.)

##### *Boycotting*

It is unlawful for any person acting alone or in concert with others, by the use of force, intimidation, violence, or threats thereof, to prevent or attempt to prevent an employer from engaging, or continuing to engage in, any proper or lawful business activity, or from the enjoyment of his property used or useful in the conduct of such business, or from acquiring materials or supplies for the purpose of such business, or to prevent or attempt to prevent any carrier or other person from supplying or delivering materials or supplies to any such employer, or from receiving or accepting delivery on the premises of such business of goods, wares, or products of such business. Violations are made a misdemeanor. (Secs. 3, 6, Act. No. 141, Laws of 1947.)

#### INTERFERENCE WITH EMPLOYMENT

##### *Interference with right to work*

It is unlawful for any person acting alone or in concert with others, by the use of force, intimidation, violence, or threats thereof, to prevent or attempt to prevent, any person from quitting or continuing in the employment of, or from accepting or refusing employment by, any employer, or from entering or leaving any place of employment of such employer. Violations are made a misdemeanor. (Secs. 1, 6, Act No. 141, Laws of 1947, approved and effective March 27, 1947.)

The above provisions with respect to boycotts, while not as broad as section 8 (b) (4) of the Taft-Hartley Act, are, nevertheless, analogous to such provisions.

Similarly, the protection against interference with the right to work mentioned above is analogous to section 8 (b) (2) of the Taft-Hartley Act.

##### *Interference with right to employ*

As a corollary to the protection of the right of individuals to work, is a provision protecting the right of the employer to employ. The statute in this respect provides that any person or persons who, by threats, violence, intimidation, or other unlawful means, shall hinder the owner, manager, or proprietor from controlling, using, operating, or working any property in any lawful organization, who shall by such means hinder such person from hiring or employing laborers or employees, shall be guilty of a misdemeanor. (Sec. 66-9909.)

#### ANTI-INJUNCTION LAWS

(Georgia has no anti-injunction law corresponding to the Norris-LaGuardia Act.)

1. Interference with right to employ (Sec. 66-9909, Code of Georgia, 1933)----- Enacted 1887

#### IDAHO

References are to the Annotated Code 1932 and to the 1940 supplement, unless otherwise indicated

1. Idaho has no separate labor relations act similar to the N. L. R. A.

2. "Yellow dog" contracts

(a) Section 43-601 makes it a misdemeanor for an employer to contract with an employee or prospective employee that he shall as a condition of employment not belong to a labor organization.

(b) The N. L. R. A. contains no similar provision, but section 8 (a) (1) and (3) makes such a contract an unfair labor practice, and section 10 (c) provides for

Board orders requiring the violator to cease and desist from such unfair labor practices and take such affirmative action as will effectuate the policies of the act.

### 3. *Policy—right to organize and bargain*

(a) Section 43-4A101, 1940 Supp., declares that negotiation of terms and conditions of labor should result from voluntary agreements between employer and employees; that individual workmen shall have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate terms and conditions of employment and shall be free from influence, restraint, and coercion in these or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) The policy of the United States set forth in section 1 of the N. L. R. A. is similar to the above.

### 4. *Secondary boycotts and hot cargo*

(a) Chapter 265, Laws of 1947, makes it a misdemeanor to cause or threaten to cause injury to a party not involved in a labor dispute by boycott whether by (a) withholding patronage, labor, (b) picketing, (c) refusing to handle, use, or work on goods, or (d) by any other means, in order to force him into a plan designed to cause another or to compel the party to the dispute to comply with particular demands.

(b) Section 8 (b) (4) is somewhat similar in that it makes it an unfair labor practice for a labor organization to engage in or induce employees to engage in a strike or concerted refusal to handle or work on goods or perform services where an object is (A) forcing an employer or self-employed person to join a labor or employer organization or employer or other person to deal in the goods of another, and (B) forcing another employer to bargain with a union which has not been certified under section 9. Section 10 (1) makes injunctive relief mandatory if there is reasonable cause to believe that a charge under 8 (b) (4) (A) or (B) is true and that a complaint should issue.

### 5. *Definition of labor disputes*

(a) Section 43-4A112, as amended by ch. 266, Laws of 1947, defines a labor dispute as any controversy between an employer and the majority of his employees in a collective-bargaining unit concerning the right of process, or details of collective bargaining, or designation of representative.

(b) Section 2 (9) contains a similar but broader definition of labor dispute, in that disputants need not stand in the proximate relation of employer and employee.

### 6. *Enforcement of "yellow dog" contracts denied*

(a) Section 43-4A102, 1940 Supp. 215, Laws of 1933, denies legal or equitable relief for the enforcement of "yellow dog" contracts.

(b) Section 8 (a) (1) and (3) makes such contracts unfair labor practices.

### 7. *Limitations on liability of unions*

(a) Section 43-4A104, 1940 Supp., provides that unions or members shall not be criminally or civilly responsible for unlawful acts of members except upon certain proof of their actual participation, authorization, or ratification.

(b) Section 301 (b) makes both employers and labor organizations liable for the acts of their "agents" and provides that a union may sue or be sued, "as an entity in behalf of the employees whom it represents," in the courts of the United States, but any money judgment is enforceable only against the organization and not the member.

Sections of the Idaho Annotated Code cited in preceding pages were enacted as follows:

2. "Yellow dog" contracts; (a) section 43-601, section 2321, Completed Statutes 1919.
3. Policy, right to organize and bargain; (a) section 43-4A101, 1940, Supplement, chapter 215, Laws of 1933.
4. Secondary boycotts and hot cargo; (a) chapter 265, Laws of 1947.
5. Definition of labor disputes; (a) section 43-4A112, as amended by chapter 266, Laws of 1947.
6. Enforcement of "yellow dog" contracts; (a) section 43-4A102, 1940 Supplement, chapter 215, section 8, Laws of 1933.
7. Limitations on liability of unions; (a) section 43-4A104, 1940 Supplement, chapter 215, section 4, Laws of 1933.

## INDIANA

References are to Burns' Statutes Annotated 1933, unless otherwise indicated

1. Indiana has no separate labor-relations act similar to the N. L. R. A.

2. *"Yellow-dog" contracts*

(a) Section 40-503 provides that any undertaking involving promises by either an employer or employee not to join or remain a member of any labor or employer organization shall afford no basis for legal or equitable relief.

(b) Sections 8 (a) (1) and (3) and 8 (b) (1) (B) make such promises unfair labor practices.

3. *Right to organize and bargain*

(a) Section 40-502 provides that employees shall have full freedom of self-organization in activities for the purpose of collective bargaining.

(b) Section 7 gives employees the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing for the purposes of collective bargaining, or other mutual aid or protection and the right to refrain from any or all such activities.

4. *Interference with labor activities*

(a) Section 10-4906 provides that no employer shall prevent employees from joining a lawful labor organization, or coerce employees by discharging or threatening to discharge them because of such membership.

(b) Section 8 (a) (1) and (3) makes uch practices an unfair labor practice.

5. *Labor disputes involving public utilities*

(a) Sections 1-18, chapter 341, Laws of 1947, contain intensive provisions governing labor disputes involving public utilities. It defines collective bargaining to mean the kind provided for by the N. L. R. A., and makes it the duty of public utility employers to exert every reasonable effort to settle labor disputes by collective bargaining and by maintaining any collective agreements arrived at through such process.

(b) Section 8 (d) defines collective bargaining and section 8 (a) (5) and 8 (b) (3) make it an unfair labor practice for an employer and labor organization, respectively, to refuse to bargain collectively.

\* \* \* \* \*

(a) Sections 1-18, chapter 341, Laws of 1947, also provide for appointment by the Governor of persons to serve as conciliators, and as members of boards of arbitration.

(b) Section 202 of the N. L. R. A. is somewhat similar in that it creates the Federal Mediation and Conciliation Service.

\* \* \* \* \*

(a) Sections 1-18, chapter 341, Laws of 1947, also provides that if in the opinion of the Governor a labor dispute between a public utility employer and its employees has reached an impasse and is likely to interrupt service and cause hardship to a community, then the Governor shall appoint a conciliator to attempt to settle the dispute.

(b) Section 206 of title II also provides that where, in the opinion of the President, a threatened or actual strike or lock-out affects an entire industry or a substantial part thereof and will, if permitted to continue, imperil the national health or safety, a board of inquiry is to be appointed to make a report to him.

\* \* \* \* \*

(a) Section 1-18, chapter 341, laws of 1947, also provides for no strike, lock-out, or interruption of work by employees or employer until such time as all procedure provided by this law has been exhausted or during the effective period of an order issued by a board of arbitration. Any person adversely affected by reason of a violation of these provisions may file an action to restrain or enjoin such violation and compel performance of the duties imposed by this law.

(b) Section 208 of title II empowers the President to direct the Attorney General to obtain an injunction in a strike or lock-out, which affects an entire industry or a substantial part thereof, if it would imperil the national health or safety.

6. *Declaration of public policy*

(a) Section 40-502 declares that the individual worker though free to decline to associate with his fellow workers, shall have full freedom of association,

self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from interference, restraint, and coercion of employers in these, or in other concerted activities for the purposes of collective bargaining or other mutual aid or protection.

(b) Section 7 gives employees the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through chosen representatives and to engage in any concerted activities for the purpose of collective bargaining or other mutual aid or protection and to refrain from any or all such activities.

#### 7. *Injunctions in labor disputes*

(a) Section 40-504 prohibits issuance of restraining orders or injunctions in a labor dispute to prohibit a person from doing any of the following: (a) refusing to perform work, (b) becoming or remaining a member of a labor or employer organization, (c) paying or withholding strike benefits, (d) aiding persons involved in court actions in labor disputes, (e) publicizing facts of labor dispute, (f) peaceably assembling to act in a labor dispute, (g) advising another of an intention to do any of the above, (h) advising or causing without fraud or violence the above acts.

Section 40-505 prohibits issuance of restraining order or injunction on ground person participating in labor dispute is engaged in unlawful conspiracy because of doing in concert the acts listed above in 40-504.

Section 40-508 prohibits restraining order or injunction to complainant who has failed to comply with obligation imposed by law involving labor dispute; or who has failed to make a reasonable effort to settle dispute.

(b) The N. L. R. A. contains no similar provisions prohibiting issuance of restraining orders or injunctions but rather gives the Board the power to apply for injunctive relief under sections 10 (e), (j), and (L) and under section 208 of title II authorizes the President to obtain an injunction in a strike or lock-out threatening the national health or safety.

#### 8. *Check-off of union dues*

(a) Section 40-201 permits a check-off of union dues by an employer if authorized by the employee in writing and agreed to by the employer and is revocable at any time by the employee upon written notice to the employer.

(b) Section 302 (e) (4) permits the check-off of union dues if the individual employee authorizes such deduction in writing which shall not be irrevocable for a period of more than 1 year or beyond the termination date of the applicable contract.

Sections of the Burns' Statutes Annotated cited in the preceding pages were enacted as follows:

2. "Yellow-dog" contracts: (a) Section 40-503, chapter 12, section 3, Acts of 1933.
3. Right to organize and bargain: (a) Section 40-502, chapter 12, section 2, Acts of 1933.
4. Interference with labor activities: (a) Section 10-4906, chapter 76, section 1, Acts of 1893.
5. Labor disputes involving public utilities: (a) Sections 1-18, chapter 341, Laws of 1947.
6. Declaration of policy: (a) Sections 40-502, chapter 12, section 2, Acts of 1933.
7. Injunctions in labor disputes: (a) Section 40-504, chapter 12, section 4, Acts of 1933.
8. Check-off of union dues: (a) Section 40-201, chapter 124, section 4, Acts of 1899.

### ILLINOIS

References are to the Illinois State Bar Statutes unless otherwise indicated

1. Illinois has no separate labor relations act similar to the N. L. R. A.

2. "Yellow-dog" contract void

(a) Chapter 48, section 2b, makes agreements between an employer and employee or prospective employee against public policy and void if either party promises not to belong to an employer or labor organization.

(b) Section 8 (a) (1) and (3) and 8 (b) (1) (B) make such promises unfair labor practices.



### 3. *Interference with employment*

(a) Chapter 38, section 376, makes it unlawful for two or more persons to combine for the purpose of preventing by threats or any unlawful means any person from being employed by the owner or possessor of property on such terms as the parties concerned may agree upon.

(b) There is no similar provision in the N. L. R. A. However, it is an unfair labor practice under section 8 (a) (1) for an employer to interfere with, restrain, or coerce and under 8 (b) (1) for a labor organization to restrain or coerce, employees in the exercise of their right, under section 7, to self-organization, to form, join, or assist labor organizations and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection or to refrain from any or all such activities.

### 4. *Intimidation of workmen*

(a) Chapter 38, section 377, provides a fine for any person who by threat, intimidation, or unlawful interference seeks to prevent any other person from working or from obtaining work at any lawful business on any terms that he may see fit.

(b) There is no similar provision in the N. L. R. A. However, it is an unfair labor practice under section 8 (a) (1) for an employer to interfere with, restrain, or coerce and under 8 (b) (1) for a labor organization to restrain or coerce, employees in the exercise of their right, under section 7, to self-organization, to form, join, or assist labor organizations and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection or to refrain from any or all such activities.

### 5. *Entering premises to intimidate*

(a) Chapter 38, section 378, makes it unlawful for any person to enter the building or premises of another with intent by means of threats, intimidation, or riotous or other unlawful doings, to cause an employee therein to leave his employment.

(b) There is no similar provision in the N. L. R. A. However, section 8 (b) (1) makes it an unfair labor practice for a labor organization to restrain or coerce an employee in the exercise of the right, guaranteed in section 7, to self-organization, to form, join, or assist labor organizations for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all of such activities.

### 6. *Extortion in the name of employees*

(a) Chapter 38, section 242, 243, 244, makes it unlawful for any person representing any organization of workmen to extort, demand, accept, or obtain from an employer money or other property as a consideration for withholding or terminating any demand or controversy relating to the employment of workmen or handling, delivery, or use of materials. Chapter 38, section 246 makes violations punishable by imprisonment from 1 to 5 years.

(b) Section 302 (b) N. L. R. A. makes it unlawful for any representative of employees in any industry affecting commerce to receive or accept, or to agree to receive or accept, from the employer of such employees any money or other thing of value. Section 302 (d) makes violations a misdemeanor punishable by fine of not more than \$10,000 or imprisonment for 1 year, or both.

### 7. *Injunctions prohibited in labor disputes*

a. Chapter 48, section 2a, prohibits restraining orders or injunctions in any case growing out of a labor dispute concerning terms or conditions of employment, or from terminating any relation of employment, or from peaceably recommending others to do so: or from peaceably being upon any public street to obtain information, or to persuade others to work or abstain from working, or to employ or discharge peaceably any party to a labor dispute.

b. The N. L. R. A. does not contain a prohibition similar to the above.

Sections of the Illinois Bar statutes cited in the preceding pages were enacted as follows:

2. "Yellow-dog" contract void: (a) Chapter 48, section 2b; section 1, of the Laws of 1933.

3. Interference with employment: (a) Chapter 38, section 376, division 1, section 158, Revised Statutes 1874.

4. Intimidation of workmen: (a) Chapter 38, section 377, division 1, section 159, Revised Statutes 1874.

5. Entering premises to intimidate: (a) Chapter 38, section 378, division 1, section 160, Revised Statutes 1874.

6. Extortion in name of employees: (a) Chapter 38, sections 242, 243, 244; sections 1, 2, and 3, Laws of 1921.

7. Injunctions prohibited in labor disputes: (a) Chapter 48, section 2a, section 1, Laws of 1925.

## IOWA

References are to the Iowa Code of 1946, unless otherwise indicated.

1. *Iowa has no separate labor relations act similar to the N. L. R. A.*

2. *Right to organize and bargain*

(a) Section 553.11 declares it not to be unlawful to organize unions for the purpose of lessening the hours of labor or increasing the wages, or bettering the conditions of the members.

(b) Section 7 gives employers the right to form, join, or assist labor organizations for the purpose of collective bargaining of or other mutual aid or protection.

3. *Closed shop and union security limitations*

(a) Chapter 296, Laws of 1947, section 1, declares that every person has the right to work regardless of union membership and contracts contrary to this policy are illegal.

(b) No similar provision in N. L. R. A.

\* \* \* \* \*

(a) Chapter 296, Laws of 1947, section 2, makes it unlawful for any person to deny employment to any person because of membership or nonmembership in a labor organization.

(b) Sections 8 (a) (1) and (3) makes it an unfair labor practice for an employer to discriminate against an employee to encourage or discourage membership in a labor organization except in the case where a union shop contract is in effect.

\* \* \* \* \*

(a) Chapter 296, Laws of 1947, section 3, makes it unlawful to enter into a contract requiring as a condition of employment either membership or nonmembership in a labor organization.

(b) Section 8 (a) (1) and (3) make it an unfair labor practice to enter into a contract requiring nonmembership as a condition of employment, but permit union shop contracts requiring membership.

\* \* \* \* \*

(a) Chapter 296, Laws of 1947, section 4, makes it unlawful for any person to require as a condition of employment the payment of dues, charges, fees, contributions, fines or assessments to any labor organization.

(b) Section 8 (a) (3) permits union-shop contracts which may require the payment of periodic dues and initiation fees.

\* \* \* \* \*

(a) Chapter 296, Laws of 1947, section 5, makes a check-off of union dues from an employee's earnings unlawful unless the employer has a written authorization signed by the employee and his or her spouse if married, which authorization is revocable by giving at least 30 days' notice.

(b) Section 302 (c) contains a similar provision but does not require the authorization to be signed by the wife and cannot be irrevocable for more than 1 year or the term of the contract whichever occurs sooner.

4. *No strike or lock-out during mediation*

(a) Section 1507 prohibits either party from engaging in a strike or lock-out during an investigation of a labor dispute by the board of arbitration and conciliation.

(b) Except for the 80-day prohibition against strikes or lock-outs provided in section 203 in the case of national emergencies, the only other somewhat similar provision is found in section 8 (d) (4) which makes it an unfair labor practice not to continue a contract in effect, without resorting to strike or lock-out for 60 days after notice to terminate or modify such contract is given.

5. *Secondary boycott a jurisdictional dispute*

(a) Chapter 297, Laws of 1947, makes it unlawful for a union to enter into or attempt to carry out a contract or conspiracy for the purpose of striking, or

refusing to handle or deal in goods to force any employer, (1) to cease handling or dealing in the goods of another; or to force any employer other than their own to comply with the demands of any union, or to force any employer to break a collective bargaining contract. It is also unlawful for a union to cause a stoppage or slow-down of work because of a dispute respecting jurisdiction over the right to work for such employer.

(b) Section 8 (b) (4) makes it an unfair-labor practice for a union to engage in or induce employees to engage in a strike or concerted refusal to work or handle goods where the object is (A) forcing an employer or self-employed person to join a union or cease dealing in the goods of another, and (B) forcing or requiring another employer to recognize or bargain with a union which has not been certified under section 9.

Section 8 (b) (4) (D) also makes a strike or concerted refusal to work an unfair-labor practice if the object is to force or require any employer to assign particular work to employees in a particular labor organization.

#### *6. Injunctive relief for secondary boycotts and jurisdictional disputes*

(a) Chapter 297, Laws of 1947, provides labor unions or members may be restrained by injunction from violating provisions in (5a) above.

(b) Section 10 (e) makes it mandatory on the Board to seek injunctive relief in cases where there is reasonable cause to believe an 8 (b) (4) (D) charge is true and that a complaint should issue, and discretionary in 8 (b) (4) (A) and (B) cases referred to in (5b) above.

Sections of the Iowa Code of 1946 cited in the preceding pages were enacted as follows:

2. Right to organize and bargain: (a) Section 553-11 enacted 1919, Thirty-eighth G. A., chapter 213, section 1.

3. Closed shop and union-security limitations: (a) Chapter 296, Laws of 1941, sections 1, 2, 3, 4, and 5.

4. No strike or lock-out during mediation: (a) Section 1507 enacted 1913, Thirty-fifth G. A., chapter 292, section 7.

5. Secondary boycott and jurisdictional dispute: (a) Chapter 297, Laws of 1947.

6. Injunctive relief for secondary boycotts and jurisdictional disputes: (a) Chapter 297, Laws of 1947.

### KANSAS

(References are to the General Statutes, annotated, 1935, and the latest supplement thereto unless otherwise indicated)

1. Kansas has a State Labor Relations Act which will be compared to the Labor-Management Relations Act in this memorandum.

#### *2. Right to organize and bargain*

A. Sections 44-614, 44-603, and 44-607: 1. Any union or association of workers engaged in any of the following industries: manufacture or preparation of food products, manufacture of clothing, mining or production of fuel, transportation of food products, clothing, or fuel, and public utilities and common carriers, which industries shall incorporate under the laws of the State, shall be recognized by the State labor commissioner as a legal entity, and may bargain collectively for its members provided it has been authorized in writing by the members to represent them for purposes of collective bargaining.

The Labor-Management Relations Act does not provide for the incorporation of the unions. Title III, section 301 (a) provides that unions may sue or be sued in Federal courts. This would have the same effect as the provision above, granting unions legal entity. Section 9 (a) provides for the representation of employees by their unions as selected by majority vote.

#### *3. Discrimination because of race or color*

A. Section 44-801: Labor organizations which discriminate against any person because of race or color are not permitted to represent any unit of employees for collective bargaining. This does not apply to organizations acting under the Railway Labor Act. There are no similar provisions in the L.-M. R. A.

#### *4. Definitions, State Labor Relations Act*

A. Section 44-802: 1. "Labor organizations" is defined to mean "any organization of employees, local or subdivision thereof, having within its membership residents of the State of Kansas, whether incorporated or not, organized for the

purpose of dealing with employers concerning hours of employment, rates of pay, working conditions, or grievances of any kind relating to employment."

Section 2 (5) of the L. M. R. A. defines "labor organizations" to mean any organization of employees which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

2. "Business agent" is defined to mean any person who shall act for any labor organization in one of two ways, (a) by the issuance of membership or authorization cards, work permits, etc., and (b) by soliciting or receiving from any employer any right or privilege for employees when such labor organization has not been certified or recognized as the bargaining unit for such employees.

The term "business agent" is not defined in the L. M. R. A.

B. Rights of employees, section 44-803: Employees shall have the right to self-organization, to bargain collectively and to engage in concerted activities for collective bargaining for mutual aid or protection. Furthermore, employees shall also have the right to refrain from any or all such activities.

Section 7 of the L. M. R. A. has a similar provision except that the privilege to refrain from such bargaining activities may be affected by a valid union-shop contract arrived at under the provisions of section 8 (a) (3). Section 8 (a) (3) provides that a majority of the eligible voters may authorize a union-shop contract.

C. Licensing of business agents, annual fee, section 44-804: This section provides for the licensing of business agents upon the submission of certain detailed information. There is no comparable provision in the L. M. R. A.

D. Filing requirements, section 44-805: Requires all unions operating in the State to file a copy of their constitution and bylaws with the secretary of state.

Section 9 (f) of the L. M. R. A. requires the unions to file with the Secretary of Labor copies of their constitution and bylaws and, in addition, a report containing information concerning their principal officers, their compensation, the manner in which the officers were elected, initiation fees charged new members, regular dues to be paid to remain in good standing in the union; and a detailed statement of union procedure with respect to qualification for or restriction on membership, election of officers and stewards, calling of meetings, levying of assessments, imposition of fines, authorization for bargaining demands, ratification of contract terms, authorization for strikes, authorization for disbursement of union funds, audit of union financial transactions, participation in insurance or other benefit plans, expulsion of members, and the grounds therefor. Unions must also file with the Secretary of Labor a report showing their receipts and the sources thereof, their total assets and liabilities, and disbursements made during the fiscal year of the report, including the purposes for which made. Unions are also required to furnish all members of the organization copies of this financial report. Section 9 (g) provides for the annual bringing up to date of the information required above.

E. Annual reports, section 44-806: Every labor organization operating in Kansas and having 25 or more members shall make a report in writing to the secretary of state showing the financial condition of such labor organization and including the following facts: the name of the labor organization, the location of its office, the name of its president, secretary, treasurer, and business agent, together with their salaries, wages, bonuses, and other remunerations, the date of the regular election of officers, the rate of its initiation fees, dues, assessments, and other charges against the members, a verified statement of the amount of expenditures, assets, and liabilities for the labor organization.

A detailed report of this nature was discussed under the paragraph above.

F. Records kept by secretary of state, section 44-807: This section provides for the availability of records showing the application for business agent and the various information discussed above. The records of this information shall be made available to all persons for examination. The L. M. R. A. has not required that information submitted by unions pursuant to the act should be available to the public. However, the financial report must be mailed to the union members.

G. Unlawful acts of employer, section 44-808: The following unlawful practices by the employer are listed: (1) To interfere with, restrain, or coerce employees in the exercise of their rights guaranteed in section 2. Section 2 is section 44-803 discussed above under rights of employees. However, these sections further provide that no provision of this act shall be so construed as to deprive that employer of his right of free speech as guaranteed by both the State and Federal Constitutions.

Section 8 (a) (1) of L. M. R. A. has a similar restraint upon interference, etc., with rights of employees. Section 8 (c) provides a somewhat narrower free-speech guaranty, limiting the expression to one which contains no threat of reprisal or force or promise of benefit.

(2) To dominate or interfere with the formation or administration of any labor organization, to contribute financial or other support to it, provided that an employer is not prohibited from permitting employees to confer with him during working hours without loss of pay. Section 8 (a) (2) is similar to the above.

(3) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this act. Section 8 (a) (4) of the L. M. R. A. is exactly the same.

(4) To refuse to furnish to an employee whose services have been terminated a letter setting forth the tenure of employment, occupation, classification, and wage rate paid the employee. There is no comparable provision in the L. M. R. A.

H. Unlawful acts of any person, section 44-808; This section makes it unlawful for any person (1) to interfere with or prevent the right of franchise of any member of the labor organization. The right of franchise includes the right of an employee to make a complaint, to file charges, to give information or testimony concerning violations of the act or to petition his union regarding any grievance he may have, or to make known facts concerning such grievance for violations of law to any person, including public officials, and his right to free petition, lawful assembly, and free speech.

It should first be noted that this section differs from the Labor Management Relations Act provisions in that the whole section applies to action of "any person." It is not limited to employers on the one hand, and employees on the other as the L. M. R. A. does in dividing the actions under section 8 (a) and section 8 (b).

The only provisions in this section which are contained in the L. M. R. A. are the provisions protecting the giving of information of violations of the act; the free speech provision in this section would apply to both employers and employees that is similar in a general way to section 8 (c). It should have been noted in section 44-808, above, that the free-speech guaranty was only to the employer not to the employees.

(2) To prohibit or prevent any election of the officers of any labor organization. There is no direct comparable provision in the L. M. R. A., although under certain conditions such action might be violative of section 8 (a) (1) or section 8 (b) (1).

(3) To participate in any strike or cessation of work, which has not been authorized by a majority of the employees to be governed thereby. This section and the following sections 12 and 13 have been declared unconstitutional.

There is no general comparable provision in the L. M. R. A., however, under section 239 which deals with the so-called national emergency strike, there is a provision for a strike ballot of employees after certain efforts of the mediation service have failed and a cooling-off time has taken place concerning the question of whether they wish to accept the final offer of settlement made by the employer. After the certification of the result of this ballot, the employees are free to strike because of the injunction under which they have been operating is to discharge.

(4) To enter into an all-union agreement as a representative of employees in a collective-bargaining unit unless the employees to be governed thereby have, by a majority vote of such employees, authorized such agreement.

This is roughly comparable to the provision in section 8 (a) (3) of L. M. R. A. for an election, to authorize a union to negotiate a union-shop contract. However, the above provision provides for a majority vote to such employees while 8 (a) (3) provides for a vote of a majority of the eligible employees.

(5) To conduct any election referred to in subsections 3 and 4 above without a secret ballot. This section was commented on above. In a national emergency strike, the ballot must be secret.

(6) To charge, receive or retain any dues, assessment or other charges in excess of, or not authorized by the constitution or bylaws of any labor organization. There is no comparable provision in the L. M. R. A.

(7) To act as a business agent without having obtained and possessing a valid statistic license. There is no comparable provision in the L. M. R. A.

(8) To act as a representative of a labor organization without authority. There is no comparable provision in the L. M. R. A.

(9) To make any false statement in an application for a license. There is no comparable provision in the L. M. R. A.

(10) To act as a business agent for a union which does not have its constitution and bylaws on file. There is no comparable provision in the L. M. R. A.; however, labor organizations which do not file their constitution and bylaws in addition to the other information required in section 9 (f), (g), and (h) are denied the services of the board, and may not participate in a representation election.

(11) For any person to seize or occupy property unlawfully during the existence of a labor dispute. There is no comparable provision in the L. M. R. A. However, the provisions of section 301 might make unions liable for the actions of their members when authorized under the provisions of the statute relating to agency.

(12) To refuse to handle or install, use, or work on particular materials, equipment or supplies because not produced, processed or delivered by members of labor organizations. (Declared unconstitutional.) Provisions of section 8 (b) (4) of L. M. R. A. make it an unfair labor practice for unions to engage in a strike or refusal to use, manufacture, process, etc., goods, articles and materials or commodities where an object thereof is for one or more enumerated purposes. The provisions of section 8 (b) (4) would include any situation coming up under subsection 12 above, and would be much broader and would apply to other situations.

(13) To cause any cessation of work by reason of any jurisdictional dispute, grievance or disagreement between or within labor organizations. (Declared unconstitutional.) Section 8 (b) (4) of L. M. R. A. makes it an unfair labor practice to strike or refuse to handle goods for the purpose of forcing or requiring an employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class.

(14) To coerce or intimidate any employee in the enjoyment of any of his legal rights or to intimidate his family, picket his domicile or injure the person or property of such employee or his family, or in any way to discriminate against any employee member of a labor organization or other person by reason of his exercise of any right guaranteed to him by the provisions of this act. Part of the above prohibition would be covered by section 8 (b) (1) of L. M. R. A. making it an unfair labor practice to restrain or coerce employees in the exercise of rights guaranteed under section 7 of the L. M. R. A.; to the extent that the rights guaranteed in the two acts are different, this provision would protect those rights.

(15) To picket beyond the area of the industry within which the labor dispute arises. There is no provision limiting the picketing specifically within the L. M. R. A.

(16) To engage in picketing by force and violence or to picket in such a manner as to prevent ingress and egress to and from any premises, or to picket other than in a peaceful manner. There is no specific language regulating picketing to peaceful picketing in the L. M. R. A.

I. Action to suspend or revoke license of business agent, section 44-810: This provides for an action by any interested party toward the suspension or revocation of any license of any business agent for violations of any of the provisions of this act. There are no comparable provisions in the L. M. R. A.

J. Action by or against unincorporated organizations, section 44-811: This provides for actions for and by unincorporated labor organizations. Judgment may be forced against the common property of the labor organization only. Section 301 (a) of L. M. R. A. provides for suits for violation of contract between an employer and a labor organization in the Federal courts and section 301 (b) provides for suits by or against labor organizations in any Federal court. It also provides that any money judgments shall be enforceable only against the organization as an entity and against its assets, not against the individual member or his assets.

K. Fees to State general funds, section 44-802: This section provides for the disposition of fees. There is no comparable provision in the L. M. R. A.

L. Certain rights protected, section 44-813: Nothing in the act is to be construed as to interfere with the right to strike or the right to work, nor with the freedom of speech. There is no comparable provision in the L. M. R. A.

M. Penalties for violation, section 44-814: Any person or labor organization violating any provision in this act shall upon conviction be judged guilty of a misdemeanor and be punished by a fine not exceeding \$500 or imprisonment for not more than 6 months, or both. The L. M. R. A. does not provide for criminal

penalties. Its sanctions are by way of board order enforcement in the circuit courts of appeal and contempt action for violations.

N. Invalidity of act, section 44-815: This is the usual separate-ability clause in case of a decision that it is unconstitutional. Section 503 of the L. M. R. A. is for the same purpose.

#### *5. Picketing and boycotting*

A. Section 44-617: In addition to the prohibition of picketing in the Labor Relations Act itself, this section prohibits the picketing in disputes involving public utilities, common carriers, manufacturers of food products and clothing, mining or production of fuel, and transportation of food products, clothing, or fuel. There is no comparable prohibition in the L. M. R. A. without the addition of other conditions which are not necessary here.

#### *6. Unlawful assembly*

A. Section 22-1001: Unlawful assembly is the assembly of three or more persons with intent to do any unlawful act with force against a person or property of another as such is defined. The L. M. R. A. does not contain any specific provision such as this; however, such activity might be mass picketing and an unfair labor practice under section 8 (b) (1).

#### *7. Sabotage and other forms of destruction*

A. Section 21-302: Sabotage is defined as the malicious, felonious, and intentional or unlawful damage, injury or destruction of real or personal property of any employer or owner, by an employee or by an employer or any person at his own instance or at the instance of employee, employer, or other person. There are no comparable provisions in the L. M. R. A.

#### *8. Blacklisting*

A. Section 44-117: This section makes blacklisting by an employer a misdemeanor. There is no comparable provision in the L. M. R. A., although under certain circumstances, it might be an unfair labor practice.

#### *9. Service letters*

A. Section 44-808: This section makes it unlawful for an employer to refuse to furnish a former employee with a letter setting forth tenure of employment, occupational classification, and wage rate. There is no comparable provision in the L. M. R. A.

#### *10. Strike breaking*

A. Section 21-1618: The importation of private armed detective forces is a felony. There is no comparable provision in the L. M. R. A.

#### *11. Lock-out*

A. Section 44-616: It is illegal for an employer in the operation of any industry, employment, utility, or common carrier specified in the act, to engage in a lock-out, to avoid any of the provisions of the Industrial Court Act. Under certain circumstances, a lock-out by an employer may be an unfair labor practice under the provisions of section 8 (a) of the L. M. R. A.

#### *12. Interference with political activities*

A. Section 25-418: Forbids an employer to refuse an employee the privilege of voting on a general election day or to in any manner attempt to influence or control his vote. There are no comparable provisions in the L. M. R. A.

#### *13. Other unfair employment practices*

A. Section 44-615: Forbids the discrimination against an employee because of his testimony before the State labor commissioner or because of the institution of complaint or actions. Similar protection is given employees under section 8 (a) (4) of the L. M. R. A.

B. Section 44-615: Forbids two or more persons to conspire to injure an employer by boycott or picketting or discrimination because of any proceeding by him before the labor commissioner or because of the action taken as a result of orders of the commissioner. There is no general provision of this nature in the L. M. R. A.; however, section 8 (b) (4) (C) would make it an unfair labor practice to strike or refuse to handle goods for the purpose of requiring an employer to recognize or bargain with one labor organization if a second organization has been certified as the proper representative under the provisions of the act.

*17. Mediation of labor disputes by the State labor commissioner*

A. Sections 44-603, 44-607, 44-606, 44-604, 44-605, 44-609, 44-610, 44-611, 44-612, 44-613, and 44-620: In any controversy arising between employers and employees, or between groups or crafts of workers engaged in the following industries: (1) manufacture of food products; (2) manufacture of clothing; (3) mining or production of fuel; (4) transportation of food products, clothing, or fuel; (5) public utilities and common carriers, when such disputes appear to the State labor commissioner to be interfering with the orderly operation of such industries, may be investigated by the commissioner who has the power to settle such controversy and adjust it. Work stoppage in the industries enumerated above is declared to be against public policy and it is illegal to willfully hinder, delay, limit, or suspend the continuous and efficient operations of the abovenamed industries, during the investigation of the commissioner. He has power to adopt rules and regulations for the proceeding, to serve, process, administer, etc.

It is declared to be necessary for the general welfare that workers engaged in any of the industries named above shall receive a fair wage and have healthful and normal surroundings, while engaged in such labor, and that capital invested therein shall receive a fair rate of return. If during the continuance of any such employment in these industries, terms, or conditions of any such contract or agreement hereafter entered into are said by the commissioner, and any action properly before it, to be unfair, unjust, and unreasonable, the commissioner may by proper order modify the terms and conditions thereof so that they will be fair, just, and reasonable. Before making such adjustments, the commissioner shall give notice to the parties. He has the power to subpoena persons or records.

The refusal of either party to the controversy to be governed by the order of the commissioner may result in proceedings before the Supreme Court of Kansas to compel compliance. Either party may appeal to the supreme court from the commissioner's decision.

The State commissioner is given authority to take over and operate any of the industries named above in which a suspension of operation affects public welfare. During such seizure, the owner of the industry shall be paid a fair return and the employees a fair wage.

There are no comparable provisions under the L. M. R. A. permitting the Government, as in the sections discussed above, to completely regulate the labor relations in the named industries. It should be noted that while the right to strike is removed, the labor commissioner is given authority to adjust wages and other working conditions so that employees theoretically may receive the same benefits which they would capture by strike in other industries.

## INDEX TO STATUTORY CITATIONS

The sections of the General Statutes, Annotated, 1935, set forth on the preceding pages, were enacted or amended on the dates indicated below:

2. Right to organize, etc.: Sections 44-614, 603, 607 enacted in 1920.
3. Discrimination because of race or color: Section 44-801 enacted in 1941.
4. State Labor Relations Act, 1943, A-N, inclusive: Sections 44-802 to 44-815, inclusive, enacted in 1943.
5. Picketing and boycotting: Section 44-617 enacted in 1920.
6. Unlawful assembly: Section 21-1001 enacted in 1868.
- NOTE.—This is erroneously set forth as 22-1001 in the preceding pages.
7. Sabotage, etc.: Section 21-30 enacted in 1920.
8. Blacklisting: Section 44-117 enacted in 1897.
9. Service letters: Section 44-808 enacted in 1943.
10. Strikebreaking: Section 21-1618 enacted in 1897.
11. Lock-out: Section 44-616 enacted in 1920.
12. Interference with political activities: Section 25-418 enacted in 1893, amended in 1897.
13. Other unfair employment practices: Section 44-615 enacted in 1920.
14. Mediation of labor disputes, etc.: Sections 44-603, 607, 606, 604, 605, 609, 610, 611, 612, 613, 620, enacted in 1920.

## KENTUCKY

Section references are to the Kentucky Revised Statutes, 1946

*I. Right to organize and bargain collectively*

Kentucky: Section 336.130 gives employees the right to organize and bargain collectively through representatives of their own choosing concerning the terms



and conditions of employment, free from coercion and restraint by employers, and the right to strike, picket and assemble for peaceful purposes. There are, however, no statutory provisions for implementing these rights.

Taft-Hartley Act: Section 7, title I, gives employees the right to organize, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for these purposes, as well as the right to refrain from any of these activities. These rights are specifically implemented by other provisions of the act.

## *II. Unfair or illegal acts and practices*

Kentucky: Section 336.130 prohibits employers, employees, and labor unions from engaging in unfair or illegal acts or practices, or from resorting to violence, intimidation, threats or coercion. None of these prohibited acts or practices are otherwise enumerated, or defined in any way, and there is no implementary machinery.

Taft-Hartley Act: Section 8, title I, enumerates the specific unfair labor practices forbidden to employers and unions, respectively, and section 10, title I, establishes the machinery for enforcing section 8.

## *III. Limited prohibition of strikes and lock-outs during voluntary mediation or conciliation*

Kentucky: Section 336.150 prohibits strikes or lock-outs for a period not exceeding 15 days where all the parties to the labor dispute have accepted the services of the State commissioner of industrial relations as conciliator or mediator.

Taft-Hartley Act: Contains no comparable provisions.

## *IV. Check-off of union dues*

Kentucky: Section 337.060 prohibits deductions from the wages of employees except that it permits deductions of union dues where such are authorized by the terms of a collective bargaining agreement.

Taft-Hartley Act: Section 302, title III, permits deduction of membership dues from the wages of employees only where the employee affected authorizes such deduction in writing. Furthermore, such authorization can be irrevocable for no longer than 1 year or the life of the applicable collective agreement, whichever is the shorter.

## *V. Political contributions*

Kentucky: Sections 123.010, 123.020, 123.030, 123.090 and section 150 of the State constitution have the effect of prohibiting corporations from making political contributions.

Taft-Hartley Act: Section 304, title III, makes unlawful any contribution, or expenditure by labor unions as well as corporations in connection with any Federal election, primary, or nominating convention or caucus. Violation of this prohibition is punishable by fine and/or imprisonment.

### KENTUCKY—INDEX TO STATUTORY CITATIONS

The sections of the Revised Statutes, 1946, set forth in the preceding pages, were enacted or amended on the dates indicated below:

- I. Right to organize and bargain: Section 336.130 enacted in 1940.
- II. Unfair or illegal acts: Section 336.130 enacted in 1940.
- III. Limited prohibition of strikes and lock-outs: Section 336.150 enacted in 1940.
- IV. Check-off: Section 337.060 enacted in 1940.
- V. Political contributions: Section 123.010 enacted in 1916; section 123.020 enacted in 1900; section 123.030 enacted in 1916; section 123.090 enacted in 1916, amended in 1940; section 150, State constitution adopted prior to 1936.

### LOUISIANA

References are to Dart's General Statutes of 1949, unless otherwise indicated

1. The State has no separate labor relations act similar to the National Labor Relations Act.
2. "Yellow dog" contracts

(a) Sections 4379.6 and 4381.2: (1) Contracts in restraint of membership in labor organizations are contrary to public policy and will not afford a basis for

the granting of legal or equitable relief against a party to such agreement. The L. M. R. A. contains no specific provisions dealing with "yellow dog" contracts. However, the imposition of such a contract would violate section 8 (a) (1) and (3).

### *3. Right to organize and bargain*

(a) Sections 4379.5 and 4381.1: This section provides that it is the public policy that negotiation of terms and conditions of labor should result from voluntary agreements between the employer and employees. It provides for freedom of association, self-organization, and designation of representatives. This is similar to section 7 of the Labor-Management Relations Act except that it does not provide for the right of the employee to refrain from any such described activities.

### *4. Unlawful assembly*

(a) Section 885: (1) The assembly of three or more persons armed with dangerous weapons or the unlawful assembly of 10 or more with intent to disturb the peace is an unlawful assembly. There is no comparable provision in the Labor-Management Relations Act.

### *5. Agency*

(a) Section 4379.8: (1) Labor organizations, officers, and members of labor organizations are not liable for unlawful acts of other members unless ratified. The L. M. R. A. in title III, section 301 (b) and (c), provides that labor organizations and employers shall be bound by the acts of their agents. It further states that in determining whether any person is acting as an agent of another person so as to make such other persons responsible for his act, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

### *6. Strikebreaking*

(a) Act No. 192, Laws 1948: (1) It is unlawful to transport into the State any person for the purpose of interfering with picketing during the course of a labor dispute or to interfere with employees in the exercise of any of their rights of self-organization or collective bargaining. There are no specific prohibitions against this activity in the Labor-Management Relations Act although under certain conditions such activity would be a violation of section 8 (a) (1) and (3).

### *7. Discrimination in employment*

(a) Section 4381.3: It is unlawful for any individual, partnership, or corporation having 25 or more employees to adopt any rule requiring the discharge of employees or the rejection of applications for reemployment upon the age of 50 years with certain exceptions concerning the effect of an old-age pension system. There is no comparable provision in the Labor-Management Relations Act.

(b) Section 4381.4: The elements for employment must be determined by mental and physical fitness and by experience and trustworthiness of the applicant or employee, not by age except in hazardous occupations. There is no comparable provision in the Labor-Management Relations Act.

(c) Section 1287.1, Dart's Code of Criminal Law and Procedure: Discharge or discrimination of any employee for testifying in any investigation or proceeding relative to the enforcement of any Louisiana labor law is unlawful. Section 8 (a) (4) of the L. M. R. A. makes it an unfair labor practice to discharge or discriminate against an employee because he has filed charges or given testimony under the act.

### *8. Interference with political activities*

(a) Section 1387, Dart's Code of Criminal Law and Procedure, and section 4381.6, 4381.7 of Dart's General Statutes of 1939: (1) It is illegal to discharge any employee because of his political opinions or to attempt to control his vote by any contract or agreement. No employer of more than 20 or more employees may adopt or enforce any rule, regulation, or policy forbidding or preventing any employee from engaging or participating in politics. There is no comparable provision in the Labor-Management Relations Act.

### *9. Other unfair employment practices*

(a) Section 1, Act No. 281, Act 1948: (1) It is unlawful to require an employee or applicant to pay the cost of any medical examination or the cost of furnishing any records required as a condition of employment. There is no comparable provision in the Labor-Management Relations Act.

## LOUISIANA, INDEX TO STATUTORY CITATIONS

The sections of the General Statutes of 1939, set forth in the preceding pages, were enacted or amended on the dates indicated below :

2. Yellow-dog contracts: Section 4379.6 enacted in 1934; section 4381.2 enacted in 1934.
3. Right to organize and bargain: Section 4379.5 enacted in 1934; section 4381.1 enacted in 1934.
4. Unlawful assembly: Section 885 repealed in 1942.
5. Agency: Section 4379.8 enacted in 1934.
6. Strike-breaking: Act No. 192 enacted in 1948.
7. Discrimination in employment: (a) Section 4381.3 enacted in 1934; (b) Section 4381.4 enacted in 1934; (c) section 1287.1, Code of Criminal Procedure, enacted in 1942.
8. Interference with political activities: Section 1387, Code of Criminal Procedure, enacted in 1870; section 4381.6, Code of Criminal Procedure, enacted in 1938; section 4381.7, Code of Criminal Procedure, enacted in 1938.
9. Other unfair employment practices: Section 1, Act No. 281, enacted in 1948.

NOTE.—Erratum 1. General Statutes of 1949 should read "1939." Erratum 2: Section 1387, Dart's Code of Criminal Procedure, referred in paragraph 8 of preceding text, should read "1287."

## MAINE

Sections referred to are the Maine Revised Statutes of 1944. Maine has no separate act similar to the National Labor Relations Act

*I. Rights to organize and bargain collectively*

Maine: Workers have full freedom to the right to organize and bargain collectively, free from interference, restraint, or coercion by their employers or other persons. (Ch. 25, sec. 10, as amended by ch. 282, Laws of 1945.)

Taft-Hartley Act: Provides for the right of employees to organize and bargain collectively free from interference, restraint, or coercion. (Secs. 7, 8 (a) (1), 8 (b) (1).)

*II. Interference with employment (promoting a strike)*

Maine: Prohibits violence or intimidation to promote a dispute or controversy between a public-service company and its employees, punishable by fine of not more than \$300 or imprisonment for not more than 3 months. (Ch. 123, sec. 17.)

Taft-Hartley Act: Nothing comparable in act, except as section 305 prohibits strikes by Government employees.

*III. Unlawful assembly*

Maine: Three or more persons assembling in a violent manner to do an unlawful act, and if they commit such act they are guilty of a riot and may be punished by a fine of not more than \$500 and by imprisonment for less than 1 year. (Ch. 123, sec. 6.)

Taft-Hartley Act: No comparable provision. Section 8 (b) (1) has been interpreted to mean that picketing cannot restrain or coerce employees in the exercise of the rights guaranteed in section 7.

*IV. Blacklisting*

Maine: Preventing any person from employment by blacklisting is punishable by fine of not more than \$500 or imprisonment for not more than 2 years. (Ch. 117, sec. 26.)

Taft-Hartley Act: The act contains no similar provision, but blacklisting would be prohibited by sections 8 (a) (1) and (3).

*V. Mediation and arbitration*

Maine: Compulsory arbitration and mediation where there are 10 or more employees involved. (Ch. 25, sec. 12, as amended by ch. 282, Laws of 1945.)

Taft-Hartley Act: Nothing comparable in act. The act contains no such provision but section 8 (d) provides that collective-bargaining agreements may not be revoked or terminated without 60 days' notice; offer to bargain; 30 days' notice to the Federal Mediation and Conciliation Service; and no lock-out or strikes during the said 60 days.

- I. Rights to organize and bargain collectively:* 1930, as amended in 1945.
- II. Interference with employment:* 1930.
- III. Unlawful assembly:* 1930.
- IV. Blacklisting:* 1930.
- V. Mediation and arbitration:* 1930, as amended in 1945.

## MARYLAND

(References are to Maryland Annotated Code, 1939, and supplement thereto.  
Maryland has no separate act similar to the National Labor Relations Act)

### *I. Right to organize and bargain collectively*

Maryland: Workers have full freedom to the right of self-organization and to bargain collectively, and shall be free from interference, restraint, or coercion of employers or their agents (art. 100, sec. 64).

Taft-Hartley Act: Provides for the right of employees to organize and bargain collectively (sec. 7).

### *II. "Yellow dog" contract*

Maryland: "Yellow dog" contracts are against public policy and do not afford a basis for the granting of either legal or equitable relief against parties concerned therewith (art. 100, sec. 65).

Taft-Hartley Act: The "yellow dog" contract would be violative of section 8 (a) (1) and (3) of the act in that it would discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.

### *III. Labor organization's liability for unlawful acts*

Maryland: No labor organization, and no officer or member thereof, shall be liable for the unlawful acts of individual officers, members, or agents, except upon proof by the weight of evidence and without the aid of any presumptions of law or fact, both of the commission of such acts by persons who are officers, members, or agents of such organization, and of the actual participation in or actual authorization or ratification of such acts (art. 100, sec. 67).

Taft-Hartley Act: The act would seem to cover this State provision under sections 8 (b) (1) (a), and 2 (13) as interpreted by the Board under the Sunset Line & Twine Co. case, to wit: that the NLRB has a clear statutory mandate to apply the ordinary law of agency in determining a union's responsibility for unfair labor practices.

### *I. Right to organize and bargain collectively:* 1935.

### *II. "Yellow dog" contract:* 1935.

### *III. Labor organization's liability for unlawful acts:* 1935.

## MASSACHUSETTS

### *1. The State has a comparable labor relations act. (See analysis attached.)*

### *2. "Yellow dog" contracts*

#### *(a) Chapter 149, section 20:*

1. Makes unlawful the agreement to join or become a member of a labor organization as a condition of employment. Violation punishable by fine, nor can the contract be used as a basis for legal or equitable relief.

2. The L. M. R. A. contains no similar provision, but section 8 (a) (1) and (3) prohibits such contracts.

### *3. Strikes, picketing, etc.*

#### *(a) Chapter 149, section 24, as amended:*

1. Peaceful picketing for purposes of persuasion is not a crime, nor can it be the basis of a suit.

2. The L. M. R. A. contains no similar provisions; however, section 8 (c) protects the expressing of views, argument, or opinion.

### *4. Labor disputes in specific industries*

#### *(a) Chapter 150B, section 1 through 7:*

1. Business engaged in the distribution of food, fuel, water, electric light and power, gas, and hospital and medical services are affected with the public interest and labor disputes should be settled primarily by the employer and employee representatives. Failing this the declaration of the existence of an emergency

will compel arbitration. During the emergency all strikes and lock-outs are prohibited.

2. Section 201 of the L. M. R. A. declares the policy of the United States for the advancement of the general welfare, health, and safety of the Nation that all labor disputes be settled by collective bargaining. Section 206 through 210 of the L. M. R. A. provides for the procurement of a temporary injunction where the national health or safety is threatened, pending the findings of a board of inquiry. Strikes and lock-outs may be postponed hereunder and upon the findings of a court enjoined. They are not prohibited.

#### 5. *Regulation of labor unions*

(a) Section 150B. Annual reports and registration:

1. Provides for an annual accounting by the president and secretary of a labor organization of all income and expenses including a listing of the salaries of all officers. It provides further that no labor union shall operate unless the president and secretary file a full informational statement concerning the set-up of the union. Violations are punishable by fine.

(b) Section 9 (f) and (g) of the L. M. R. A. denies the protection of the act to labor organizations unless it files informational and financial reports annually and the financial reports are distributed to its members.

#### 6. *Fees, dues, and assessments*

(a) Section 150B (General Laws):

1. Makes illegal demand by a union of payment of any fee to secure employment other than the usual initiation fees, dues, and assessments. Same punishable by fine.

2. Section 8 (b) (5) of the L. M. R. A. makes it an unfair labor practice to require the payment of a fee, found by the Board to be excessive, in order to become a member of a union where a union security agreement exists.

#### 7. *Liability for unions for acts of members*

(a) Chapter 149, section 20B:

1. Makes the union, or its members, not liable for unlawful acts of individual members except upon clear proof of participation, authorization, or ratification.

2. Section 2 (13) of the L. M. R. A. provides that in determining agency whether the specific acts were authorized or ratified shall not be controlling. Section 301 of the L. M. R. A. provides for suits by and against labor organizations, but a money judgment is not enforceable against members and defines agency as in 2 (13) above.

#### 8. *Anti-injunction laws*

(a) Massachusetts has a little Norris-LaGuardia Act.

#### 9. *Blacklisting or otherwise hindering employment*

(a) Chapter 149, section 19:

1. No person by force or intimidation shall prevent the employment of another. Punishable by fine.

2. The L. M. R. A. has no comparable section. However, such acts may be prohibited under section 8 (b) (1) and sections 8 (a) (1) and (3).

#### 10. *Notice of strike to prospective employees*

(a) Chapter 149, sections 22 and 23, as amended:

1. During any labor trouble, employers advertising for employees must mention the existence of the trouble.

2. The L. M. R. A. has no comparable section.

#### 11. *Strike breaking*

(a) Chapter 149, section 23A:

1. Makes unlawful the hiring of armed guards prior to and during a labor dispute. Punishable by fine or imprisonment, or both.

2. The L. M. R. A. has no comparable section. However, such acts may be prohibited under section 8 (a) (1) of the act.

#### 12. *Interference with political activities*

(a) Chapter 55, section 27:

1. No employer by threats of discharge or reduction in pay shall influence his employee's vote. Punishable by imprisonment.

2. The L. M. R. A. has no comparable section. However, section 304 prohibits expenditure of funds by a labor organization for political activities.

*13. Private detectives*

(a) Chapter 147, section 25A:

1. Makes compulsory that private detectives notify the commissioner of public safety within 24 hours after entering a plan to interfere with organization of employees. Punishable by loss of license.

2. The L. M. R. A. has no comparable provision, but the use of a private detective as above stated may be prohibited by section 8 (a) (1).

*14. Check-off of union dues*

(a) Chapter 154, section 8:

1. Permits check-off at the written request of the employee.

2. Section 303 (c) of the L. M. R. A. permits the check-off on a written assignment by the employee irrevocable for a period of not more than 1 year, or the termination date of the applicable collective-bargaining agreement, whichever occurs sooner.

Massachusetts has a labor-relations act (the portion dealt with is contained in General Laws, ch. 150A, secs. 1 through 12) patterned closely after the old Wagner Act. The identical language is used to a considerable extent. However, the Massachusetts law includes a separate section to cover unfair labor practices by labor organizations. The following analysis will not show similarities. It will point out (a) the differences between the Massachusetts act and the N. L. R. A.; (b) portions of the Massachusetts act not contained in the N. L. R. A. It will not point out those sections of the N. L. R. A. not contained in the Massachusetts act, nor will it point out the difference between comparable sections when the N. L. R. A. is broader in scope, but includes the language of the Massachusetts act.

*Section 1. Effects of unstable relations*

This section is identical in language with section 1 of the Wagner Act findings and policies now included in section 1 of the N. L. R. A., except for such necessary language changes as were made to accommodate the Massachusetts act to intrastate commerce.

*Section 2. Definitions*

- (1) Persons.
- (2) Employer.
- (3) Employee.
- (4) Representatives.
- (5) Labor organizations.
- (6) Unfair labor practice.
- (7) Labor dispute.

*Section 3. Rights of employees*

This section is identical in language with section 7 of the old Wagner Act, now included in the N. L. R. A.

*Section 4. Unfair labor practices*

This section, except as shown below, is identical with section 8 of the old Wagner Act.

- (1) Same as 8 (1) of the Wagner Act.
- (2) Same as 8 (2) of the Wagner Act.
- (3) Same as 8 (3) of the Wagner Act, except that subsection 6, below, is contained as an exception therein.
- (4) Same as 8 (4) of the Wagner Act.
- (5) Same as 8 (5) of the Wagner Act.
- (6) Makes it an unfair labor practice for an employer to discriminate against an employee because he is not a member in good standing of a labor organization with whom the employer has made an agreement requiring membership therein as a condition of employment unless—

A. Such labor organization certifies to the employer that such employee (1) was not a member in good standing because of occupational disqualification, or the administration of discipline; and (2) has exhausted the remedies available to him within the labor organization; and

B. Such employee has exhausted the remedies available to him through the use of the commission's powers to prevent unfair labor practices. (In Massachusetts the name of the board is labor relation's commission.)

The L. M. R. A. contains no similar provision to subsection (6). However, the proviso to section 8 (a) (3) of the act provides that no employer shall justify discrimination for nonmembership (A) if he has reasonable grounds to believe

that membership was not available on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds to believe membership was denied or terminated for reasons other than the failure of the employee to tender periodic dues and initiation fees.

#### *Section 4A. Union unfair labor practices*

It shall be an unfair labor practice for any person or labor organization.

(1) To seize or occupy unlawfully private property as a means of forcing settlement of a labor dispute. The L. M. R. A. has no similar provision. However, a discharge for such activities would not be proscribed by section 8 (a) (3) of the act. Also, such activities might be deemed violative of section 8 (b) (1).

(2) To authorize or engage in a strike or boycott for the purpose of—

(a) Bringing about the commission of an unfair labor practice. The L. M. R. A. has no comparable section.

(b) Injuring the trade of any person because he has refused to commit an unfair labor practice. The L. M. R. A. has no comparable section.

(c) Interfering, restraining, or coercing employees in their choice of representatives after the commission has determined after an election that the employees do wish to be represented by that labor organization. The L. M. R. A. has no similar provision. However sec. 8 (b) (4) (B) makes a boycott illegal where an object is to require another employer to bargain with a labor organization unless that labor organization has been certified.

Sec. 8 (b) (4) (C) makes a boycott illegal where an object is to compel any employer to bargain with a labor organization if another labor organization has been certified. Section 303 permits suits for damages arising out of such illegal boycotts.

(3) Aiding or abetting the aforementioned boycotts by guidance, funds, or payment of other benefits to participants. The L. M. R. A. contains no similar provision.

#### *Section 4B. Union refusal to bargain*

Makes it unlawful for a union to refuse to bargain with an employer that has recognized it. Section 8 (b) (3) of the L. M. R. A. makes a refusal to bargain an unfair labor practice where the labor organization is the representative of the employees.

#### *Section 5. Exclusive representation by majority representatives*

(a) Same as 9 (a) of the Wagner Act.

(b) Same as 9 (b) of the Wagner Act with the proviso that the majority of a craft may determine that such craft is an appropriate unit.

Section 9 (b) (2) of the L. M. R. A. provides that a craft unit may not be deemed inappropriate where a different unit has been established unless a majority vote against the separate craft unit.

(c) Same as 9 (c) of the Wagner Act with the addition that the commission may establish rules and regulations for the filing of petitions (sec. 5 of the L. M. R. A. gives the Board the same power); including a provision for filing by an employer when (1) two or more labor organizations present conflicting claims, or (2) where a labor organization, not previously recognized, requests bargaining, or without request attempts to secure recognition through strike or boycott.

Section 9 (c) (1) (B) provides that an employer may file a petition when presented with conflicting claims of representation. Probably (c) (2) above might come within the purview of this section also.

(d) Same as 9 (d) of the Wagner Act.

#### *Section 6. Powers to prevent unfair labor practices*

(a) Same in effect as section 10 (a) of the N. L. R. A.

(b) Same as section 10 (b) of the Wagner Act.

(c) Same as section 10 (c) of the Wagner Act.

(d) Same as section 10 (d) of the Wagner Act.

(e) Same as section 10 (e) of the Wagner Act except for the necessary language changes to provide for State court instead of Federal court jurisdiction.

(f) Same as section 10 (f) of the Wagner Act with the necessary language changes pertaining to the appropriate courts.

(g) Same as section 10 (g) of the Wagner Act.

(h) Same in effect as section 10 (h) of the Wagner Act.

(i) Same as section 10 (i) of the Wagner Act.

*Section 6A. Denial of union status to an employee*

In a union-security situation, an employee may file a charge alleging (a) he has been unfairly denied membership in a labor organization for reasons other than malfeasance in office or nonpayment of initiation fees, dues, or assessments; and (b) that such labor organization has requested his employer to discharge him because he is no longer a member in good standing. The commission shall duly hold a hearing and if it determines that the employee was unfairly denied admission, or that the discipline was (1) violative of the union's constitution; (2) imposed without fair trial; (3) not warranted by the offense; or (4) against public policy; then an order shall issue that the labor organization restore the employee's good standing, or refrain from bringing out his discrimination, and restore to him such dues and assessments it collected during his suspension. If no such finding is made, the charge shall be dismissed.

*Section 6B*

Provides for a review of the commission's order.

*Section 6C*

Provides that the employee shall continue to pay union dues during the above proceedings.

The L. M. R. A. has no comparable section. See the proviso to section 8 (a) (3) mentioned in 4 (6) above. Also, the proviso to section 8 (b) (1) states that nothing therein shall impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership.

*Section 7. Investigatory powers*

This section and its 6 subsections is the same as section 11 of the Wagner Act with the necessary language changes to provide for State regulation.

*Section 8. Willful interference*

Same as section 12 of the Wagner Act.

*Section 9. Right to strike*

Nothing in the act except as contained in section 4A shall interfere with, impede or diminish the right to strike. Section 13 of the L. M. R. A. uses the equivalent language.

Sections 10, 11, and 12 are not deemed pertinent.

*1. State Labor Relations Act (ch. 150 A. L. 1938)*

Section 4, subsection 3, subsection 6; section 4A; section 4B; section 5 (c); section 6 (a); section 6A; section 6B; section 6C; section 7, first paragraph; section 9 (as amended by ch. 657, Laws of 1947, approved June 28, 1947, effective September 26, 1947).

*2. "Yellow dog" contracts*

(a) Chapter 149, section 20, amended by addition of section 20A, in 1933.

*3. Strikes, picketing, etc.*

(a) Chapter 149, section 24, as amended by chapter 272, Laws of 1933.

*4. Labor disputes in specific industries*

(a) Chapter 150B, section 1-7, as enacted by chapter 562, Laws of 1947.

*5. Regulation of labor unions*

(a) Section 150B, added by chapter 385, Laws of 1943.

*6. Fees, dues, and assessments*

(a) Section 150B, added by chapter 385, Laws of 1943.

*7. Liability of unions for acts of members*

(a) Chapter 149, section 20B as added by chapter 407, Laws of 1935.

*8. Antiinjunction laws. 1935.**9. Blacklisting or otherwise hindering employment*

(a) Chapter 149, section 19, Laws of 1932.

*10. Notice of strike to prospective employee*

(a) Chapter 149, section 22, 23, as amended by chapter 114, Laws of 1935.



*11. Strike breaking*

(a) Chapter 149, section 23A, as added by chapter 233, Laws of 1934.

*12. Interference with political activities*

(a) Chapter 55, section 27, Laws of 1932.

*13. Private detectives*

(a) Chapter 147, section 25A, as added by chapter 437, Laws of 1937.

*14. Check-off*

(a) Chapter 154, section 8, as added by chapter 96, Laws of 1933.

## MICHIGAN

I. Michigan Labor Relations Act of 1947<sup>1</sup> is the only comprehensive labor legislation existing in this State. Unlike the L. M. R. A., the mediation provisions are the heart of the act with the unfair-labor-practice sections as mere appendages. The pertinent provisions follows:

*Definitions*

Section 2b of the Michigan act in its definition of a "labor dispute" states that the controversy concerning terms of employment, etc., must be "between employers and employees or their representatives."

(The L. M. R. A. in sec. 2 (9) defines a "labor dispute" as a controversy concerning terms of employment, etc., "regardless of whether the disputants stand in the proximate relation of employer and employee.")

*Right to organize*

Section 8 makes it lawful for employees to organize, form, join, or assist a labor organization to engage in lawful concerted activities for the purpose of collective negotiation, and to bargain collectively with their employers through representatives of their own free choice.

(This is similar to sec. 7 of the Wagner Act. However, sec. 7 of the L. M. R. A. provides greater rights for employees inasmuch as they have the right to refrain from any or all such activities.)

*Compulsory mediation*

Section 9 provides that no strike or lock-out is to be resorted to until certain mediation proceedings are first conducted by the State mediation board.

Sections 9a, 9b, and 9g, 10, 11, and 23 provide for various steps to be followed by the parties whereby the issues in dispute are submitted to such board not less than 10 days before such strike or lock-out is to take place (30 days in the case of a public utility or hospital). In the event that mediation fails, the board conducts an election among the employees to determine whether they wish to strike. Calling a strike or lock-out in violation of these provisions subjects the offender to a maximum fine of \$1,000 and a jail sentence of 6 months.

(Secs. 203 and 204 of the L. M. R. A. provide for mediation service but on a voluntary basis. However, secs. 206 through 210 provide for compulsory mediation together with a cooling-off period, but only with respect to national emergencies. Sec. 8 (d) also provides for a cooling-off period in connection with contract termination and modifications.)

*Jurisdictional dispute*

Section 9c requires that jurisdictional disputes be made the subject of the afore-mentioned mediation proceedings and election as provided in section 9, *supra*.

(In the L. M. R. A., work stoppages in connection with jurisdictional disputes are made unfair labor practices under sec. 8 (b) (4) (C) and (D), and under sec. 10 (j), (k) and (l) the Board is empowered to secure restraining orders and injunctions in connection therewith.)

*Voluntary arbitration*

Section 9d provides for voluntary arbitration with the power of enforcement of the arbitration award vested in the circuit court.

(The only suggestion of arbitration in the L. M. R. A. is contained in sec. 203 (c) which requires the Federal Mediation Director to try and induce disputing parties to seek "other means" of settling their controversy peacefully.)

<sup>1</sup> Act No. 176 of the Public Acts of 1939, as amended by Act No. 318 of the Public Acts of 1947.

*Compulsory arbitration and injunctions*

Section 13 and 13a provide that in the case of a labor dispute arising in a public or municipal utility, or hospital, which has not been settled by mediation, such dispute is to be certified to the Governor. In the event the parties fail to agree to arbitrate within 10 days, an arbitration board is established by the Governor with the circuit court judge as chairman. The arbitration board is required to hold hearings and file a binding award within 30 days of the submission of the dispute. If a strike occurs or is threatened after the filing of the award, the courts are authorized to "issue such injunction as the court may deem proper and adequate"; *Provided*, That no employee shall be required to stay at work against his will.

(The procedure would be comparable to secs. 206 through 209 of the L. M. R. A. which empowers the President of the United States to submit to a board of inquiry and to enjoin strikes affecting the national health or safety. The proviso that no employee shall be required to stay at work against his will exists verbatim in sec. 502 of the L. M. R. A.)

*Bargaining unit*

Section 9c provides that the State mediation board after consultation with the parties, shall determine the bargaining unit as will best secure to the employees their right to collective bargaining, such unit to be either the employees of one employer employed in one plant or business enterprise within the State, such employees not holding executive or supervisory positions, or a craft unit, or a plant unit, or a subdivision of any of the foregoing units: *Provided*, That if the group of employees involved in the dispute has been recognized by the employer or identified by certification, contract, or past practice as a unit for collective bargaining, the Board shall adopt such unit.

(This would be comparable to sec. 9 (b) of the L. M. R. A. except that (1) multiplant units are appropriate under the L. M. R. A., (2) professional employees and guards cannot be included with other nonprofessional employees, (3) self-determination elections among crafts are allowed, and (4) past bargaining history is merely a factor to be considered by the Board.)

*Mass picketing*

Section 9f prohibits mass picketing, threats, intimidation, force or coercion which acts to obstruct or interfere with entrance to or egress from any place of employment or to interfere with the free use of public roads, streets, highways, airports, or other means of travel. It also prohibits any person acting as one of a group to engage in picketing the private residence by any means or methods whatsoever: *Provided*, That picketing to the full extent as authorized under constitutional provision shall in no manner be prohibited.

(This would be comparable to sec. 8 (b) (1) (A) of the L. M. R. A. which makes it an unfair labor practice for a union to restrain or coerce employees in the exercise of the rights guaranteed in sec. 7, one of such rights being interpreted by Board decisions as the right to go to and from work. The proviso in sec. 9f, *supra*, is comparable to sec. 8 (c) of the L. M. R. A.)

*Closed-shop agreements*

Section 14 sanctifies the closed-shop agreement provided it is entered into with the bargaining representatives designated by a majority of the employees.

(This is broader than the L. M. R. A. which in sec. 8 (a) (3) sanctifies only a union-shop agreement provided that the employees so covered have authorized such agreement in an election conducted pursuant to sec. 9 (e).)

*Unlawful entry*

Section 15 makes it a misdemeanor to enter, take possession, or interfere with the free use or control of any property against the will of the owner by force, threats, intimidation, artifice, or stratagem.

(The L. M. R. A. contains no similar provision although sec. 8 (3) of the Wagner Act has been interpreted by Board decisions to deprive a person committing such an act of his rights under such act and makes such person amenable to discharge.)

*Employer unfair labor practices*

Section 16 makes it unlawful for an employer (1) to initiate, create, dominate, contribute to, or interfere with the formation or administration of any labor organization; (2) to encourage membership in a "company union"; (3) to discriminate in regard to hire, terms, or other conditions of employment in order to discourage membership in any labor organization; or (4) to discriminate against an employee because he has given testimony before the board or commission.

((1) and (2) above would be comparable to sec. 8 (a) (2) of the L. M. R. A.; (3) above would be similar to 8 (a) (3) except that 8 (a) (3) provides that discrimination may occur in encouraging as well as discouraging membership in

labor organizations; (4) above would be similar to sec. 8 (a) (4); (1), (2), (3) and (4) would also be proscribed by sec. 8 (a) (1) of the L. M. R. A. inasmuch as they would all constitute interference with the rights of employees guaranteed under sec. 7.)

#### *Unfair labor practices by employees*

Section 17 forbids any employee or other person by threat of or by coercion, intimidation, cause any person to become or remain a member of a labor organization, or to refrain from engaging in employment.

(Conduct of this type is also prohibited by 8 (b) (1) and (2), and to some extent by 8 (b) (4) of the L. M. R. A.)

### *II. Miscellaneous labor legislation*

#### *Check-off of union dues*

Sections 17115-353, 1940 supplement prohibits employers from making deductions from the wages of any employee who does not give his consent fully and freely and without intimidation or fear of discharge; or to require an applicant for employment to agree to contribute to any social or beneficial purpose as a condition of employment.

(This proscription appears in sec. 302 of the L. M. R. A. wherein an employer is forbidden to make check-offs from the wages of his employees unless he has first received from such employee a written consent which is not to be irrevocable for a period of over 1 year. Sec. 8 (a) (1) and (3) would also proscribe the employer from requiring job applicants to agree to such check-off as a condition of employment since such action has been interpreted to act as an encouragement to join a union.)

#### *Political activity*

Section 3319 of the Compiled Laws 1929 prohibits the agent or officer of any corporation or joint stock company to pay, give, or lend money belonging to such company to any candidate or political committee as payment for election purposes.

(Section 313 of the L. M. R. A. contains a prohibition against political spending by corporations and labor organizations alike.)

#### *Unlawful assembly*

Sections 17115-521 and 522 provides that where 30 or more persons be unlawfully, riotously, or tumultuously assembled it shall be the duty of the city or village officials, the township supervisor, every justice of the peace, sheriff of the county or any member of the city or State police force within their respective jurisdictions to go among the persons assembled and command them to disperse. Failure to disperse when so ordered, exposes any such person participating in such assemblage to arrest.

(There is no comparable provision in the L. M. R. A. However, under the interpretation of 8 (3) by Board decisions, participants in an unlawful assembly under certain circumstances would be deprived of protection under the Wagner Act and would be made amenable to discharge.)

### INDEX OF CITATIONS

#### *I. Michigan Labor Relations Act of 1947*

References are to Act No. 176 of the Public Acts of 1939, as amended by Act No. 318 of the Public Acts of 1947

	<i>Enactment date</i>
Definitions: Sec. 2b.....	1939
Right to organize: Sec. 8.....	1939
Compulsory mediation:	
Sec. 9.....	1939
Secs. 9a, 9b, and 9g.....	1947
Secs. 10, 11, and 23.....	1939
Jurisdictional dispute: Sec. 9c.....	1947
Voluntary arbitration: Sec. 9d.....	1947
Compulsory arbitration and injunctions: Secs. 13 and 13a.....	1947
Bargaining unit: Sec. 9e.....	1947
Mass picketing: Sec. 9f.....	1947
Closed-shop agreements: Sec. 14.....	1939
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*II. Miscellaneous labor legislation*

References are to the Compiled Laws 1929 and Mason's 1940 and 1945 Cumulative Supplement

Check-off of union dues: Sec. 17115-353.....	1893
Political activity: Sec. 3319.....	1913
Unlawful assembly: Secs. 17115-521 and 522.....	1847

## MINNESOTA

Chapter 440, Laws of 1939, as amended; approved and effective April 22, 1939, provides for the regulation of various aspects of labor relations. Sections 179.01 to 179.17 are cited as the Minnesota Labor Relations Act. Other miscellaneous acts regulate other aspects of labor relations.

*M. L. R. A.*

## I. DEFINITIONS

The definitions in section 179.01 of M. L. R. A. are similar to those in section 2 of N. L. R. A. with some noteworthy exceptions. The term "employer" includes a person acting in the interest of an employer, whereas the term in N. L. R. A. includes only the agent of the employer. An individual having the status of an independent contractor and a supervisor are not expressly excluded from the definition of "employee" in M. L. R. A., whereas they are excluded in N. L. R. A. The term "labor organization" (in this memo referred to as union) is more narrowly defined in M. L. R. A. so as not to embrace an agency, employee committee, or plan as it is in the N. L. R. A. The terms "agricultural products," "processor," and "marketing organization" are defined because of the special application of certain provisions.

## II. LABOR CONCILIATOR

Section 179.02 of M. L. R. A. creates a division of conciliation under the control of a labor conciliator appointed by the governor. The State labor conciliator has the functions of a mediator and also has functions similar to the National Labor Relations Board respecting the determination of bargaining representatives in representation proceedings. The conciliator has no jurisdiction over unfair labor practices. Their prosecution is the responsibility of the aggrieved persons.

Under the L. M. R. A. the National Labor Relations Board is created with jurisdiction over unfair labor practices and the determination of questions concerning representation. There is also created a Federal Mediation and Conciliation Service which furnishes conciliators at the request of any parties to a labor dispute.

## III. RIGHTS OF EMPLOYEES AND EMPLOYERS

Under section 179.10, subdivision 1, of M. L. R. A., employees have the right to form, join, or assist unions, to bargain collectively through their unions, and to engage in lawful concerted activities for collective bargaining or other mutual aid or protection, and the right to refrain from such activities. (NOTE: Closed shops or other compulsory membership contracts are not precluded.)

Under subdivision 2, employers have the right to associate together for the purposes of collective bargaining.

Under the N. L. R. A., employees' rights are identical except that said act expressly states that the right "to refrain" may be diminished by a union-shop contract entered into as authorized by section 8 (a) (3). Employers' rights of association are not mentioned.

## IV. UNFAIR LABOR PRACTICES BY EMPLOYEES

It is an unfair labor practice under section 179.11 of M. L. R. A.

*A. Strike and violation of contract*

For an employee or union to strike in violation of a contract when the employer is complying therewith, or to violate the terms of the contract (subdivision 1).

There is no comparable provision in N. L. R. A. Striking employees may be discharged, if the strike is in violation of the contract.

*B. Strike during cooling-off period*

For an employee or union to strike in violation of section 179.06 or 179.07 (subdivision 2).

The cited sections are discussed below.

*B-1. Collective bargaining, strike and lock-out notices, conciliation*

Section 179.06 requires that when employees or their representative desire to negotiate a contract or change any existing contract, notice of their desire shall be served on the employer. A like notice to employees or their representative is required of any employer. The parties are then required to endeavor in good faith to reach an agreement. If they cannot reach an agreement within 10 days, any employees, their representative or the employer may give 10 days' notice of intention to strike or lock-out, and serve a copy on the State labor conciliator. A strike or lock-out prior to the expiration of this period of 10 days is prohibited. The State labor conciliator is then required to arrange a conference with the disputants to attempt to effect a settlement of the dispute. (On request the State labor conciliator may do likewise even though no strike notice is sent.)

Section 8 (d) of N. L. R. A. in defining the duty to bargain collectively, states in part that where there is a collective-bargaining contract in effect, the duty means that no party to the contract may terminate or modify it unless that party serves a 60 days' notice of its intention, offers to meet and negotiate a new or modified contract, serves a 30 days' notice on the Federal Mediation and Conciliation Service advising of the dispute (with a like notice to a similar State agency if there is one, and continues the contract in full force for the period of 60 days or until the expiration of the contract, whichever occurs sooner. An employee who strikes during the 60-day period loses his status as an employee. A failure to comply with these provisions would constitute the unfair labor practice of refusing to bargain in good faith.

*B-2. Labor dispute affecting public interest*

Section 179.07 of M. L. R. A. provides that where a dispute occurs in an industry affected with a public interest, or one supplying the necessities of life, safety or health, the State labor conciliator shall notify the Governor who may appoint a fact-finding commission to report on the issues and the merits. A strike or lock-out is prohibited for a period of 30 days after the notice to the Governor.

Under sections 206 to 210 of L. M. R. A., provision is made for mediation and conciliation in disputes that may imperil national health or safety. The President is also authorized to appoint a fact-finding board of inquiry to report on the disputed issues. Pending the report and an election by employees on the employer's last offer, a strike or lock-out may be enjoined.

*C. Seizure of property*

For any person to seize or occupy property unlawfully during a labor dispute (subdivision 3).

There is no comparable provision in N. L. R. A. An employer is free to discharge employees for such activity.

*D. Picketing*

For any person to picket or cause to be picketed a place of employment where the person is not employed, while a strike is in progress, unless the majority of pickets are employees, or for more than one person to picket an entrance to a place of employment where no strike is in progress (subdivisions 4 and 5).

There are no comparable provisions in N. L. R. A.

*E. Interference with vehicles*

For any person to interfere with the operation of a vehicle or its operator when neither the owner nor the operator is at the time a party to the strike (subdivision 6).

There is no comparable provision in the N. L. R. A.

*F. Restraint and coercion*

For any employee, union, officer, agent, or member thereof to compel or attempt to compel any person to join or refrain from joining a union or a strike against his will by any threatened or actual unlawful interference with his person, family or property or to assault or unlawfully threaten such person while in pursuit of lawful employment (subdivision 7).

Section 8 (b) (1) (A) of N. L. R. A. prohibits restraint and coercion by a union or its agent on employees in the exercise of the rights set forth under III, above.

*G. Strike without majority authorization*

For any person or union to cooperate in, promote or induce a strike unless the strike has been approved by a majority vote of the voting employees in the bargaining unit in a secret ballot at an election called by the bargaining agent on notice to all employees in the unit (subdivision 8).

There is no comparable provision in the N. L. R. A.

*H. Activity involving agricultural products*

For any person or union to hinder by intimidation, force, coercion or sabotage, or by threats thereof, the production, transportation, processing or marketing by a producer, processor, or marketing organization, of agricultural products, or to combine or conspire to cause or threaten to cause injury to any processor, producer, or marketing organization, whether by withholding labor or other beneficial intercourse, refusing to handle, use or work on agricultural products, or by other unlawful means, in order to bring such processor or marketing organization against its will into a concerted plan to coerce or damage any producer; provided, nothing herein shall prevent a strike called by the employees of such producer, processor or marketing organization for the purpose of improving their own conditions or promoting or protecting their rights (subdivision 9).

The L. M. R. A. does not single out any particular industry for special consideration with respect to unfair labor practices. It does provide for special treatment of a dispute affecting national safety or health, by providing for mediation, the appointment of a Presidential fact-finding board of inquiry, and an injunction against strikes and lock-outs for a limited period. Under some circumstances, a violation of the foregoing provision of the M. L. R. A. would also constitute a violation of section 8 (b) (4) of N. L. R. A.

*I. Interference with traffic—Mass picketing*

For an employee or union to interfere with the free uninterrupted use of public roads, streets, conveyances, or to obstruct ingress and egress from any place of business or employment (sec. 179.13).

Under section 8 (b) (1) (A) of N. L. R. A., mass picketing would be prohibited if it interfered with the ingress and egress of employees.

*J. Strikes or boycotts—To cause discrimination or coercion*

Section 179.42, chapter 486, Laws of 1947, provides that it is unlawful and an unfair labor practice for any person or organization to combine with another, to cause loss to an employer, to withhold services or patronage, or to induce or attempt to induce another to withhold patronage or other business intercourse, for the purpose of inducing such employer to persuade his employees to join or refrain from joining any union or organization or for the purpose of coercing the employer's employees to join or refrain from joining any union or organization.

Section 8 (b) (2) of N. L. R. A. prohibits the same activity.

*K. Secondary boycott*

Sections 179.40 to 179.47, chapter 486, Laws of 1947, make secondary boycotts unlawful and an unfair labor practice. A secondary boycott is defined as a combination, agreement or concerted action to (1) refuse to handle goods or to perform services for an employer because of a labor dispute between another employer and his employees or a union; (2) cease performing or to cause any employees to cease performing any services for an employer, or to cause loss or injury to such employer or his employees to induce the employer to cease doing business with or to cease handling the products of another employer who is engaged in a dispute with his employees or a union; (3) cease performing or to cause any employer to cease performing any services for another employer, or to cause injury to such other employer or his employees, for the purpose of inducing such other employer to cease doing business with or handling the products of any other employer because of a dispute between the latter and his employees.

Section 8 (b) (4) (A) of N. L. R. A. makes it an unfair labor practice to engage in, or to induce or encourage employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is: (A) forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person.

*L. Unlawful acts*

The violation of those clauses listed above under headings "B" to "K" are declared to be unlawful acts as well as unfair labor practices (sec. 179.11, subdivision 10, sec. 179.42, sec. 179.44).

There is no comparable provision in N. L. R. A.

## V. UNFAIR LABOR PRACTICES BY EMPLOYERS

Under section 179.12 it is an unfair labor practice for an employer—

*A. Lock-out—Violation of contract*

To lock out his employees in violation of a contract when the employees are complying therewith, or to violate the terms of the contract (subdivision 1).

There is no comparable provision in N. L. R. A.

*B. Lock-out during cooling-off period*

To lock out employees in violation of section 179.06 or 179.07 (subdivision 2).

The lock-out provisions were discussed above together with strikes under IV B-1 and B-2.

*C. Encourage or discourage union membership—closed shop*

To encourage or discourage union membership by discrimination in regard to hire or tenure of employment or any condition of employment, except that this clause does not apply to a contract voluntarily made by an employer and his employees or their representative (subdivision 3).

Section 8 (a) (3) of N. L. R. A. contains the same prohibition against discrimination with a different proviso. The latter proviso permits an agreement making membership in a union a condition of employment after 30 days' employment if: (1) the union is the employees' representative in an appropriate unit; and (2) the Board has certified that a majority of employees voted to authorize such agreement in a Board-conducted election, provided, however, an employer may not discriminate because of nonmembership in the union if he has grounds for believing that (a) membership was not available to the employee on the same terms applicable to other members, or (b) membership was denied or terminated for some reason other than the failure to tender the uniformly required periodic dues or initiation fee.

*D. Reprisal for filing charges or giving information*

To discriminate against an employee because he has given any information or testimony, signed or filed an affidavit, petition or complaint (subdivision 4).

Section 8 (a) (4) of N. L. R. A. contains a similar provision.

*E. Surveillance*

To spy on the activities of employees or their representatives in the exercise of their legal rights (subdivision 5).

Section 8 (a) (1) of N. L. R. A., aimed at restraint and coercion, would prohibit the same activity.

*F. Blacklisting*

To distribute a blacklist of individuals exercising their legal rights or of union members for the purpose of preventing their employment (subdivision 6).

In most circumstances, such activity would be barred by section 8 (a) (1) and (3) of N. L. R. A.

*G. Unlawful acts*

1. The violation of those clauses in section 179.12 of M. L. R. A. listed above in headings "B" to "F" are declared to be unlawful acts as well as unfair labor practices (subdivision 7).

There is no comparable provision in N. L. R. A.

2. Under section 178.135 of M. L. R. A., an employer, holding a contract with a union recognized or certified by the State labor conciliator or the N. L. R. B., shall not be required to negotiate with any other union respecting employees covered by the contract while it is in force except where a successor union has been certified by the State labor conciliator or the N. L. R. B. and recognized by the employer. A violation of this provision by any officer, business agent, employee or other union representative is prohibited but not expressly made an unfair labor practice.

A prohibition more limited as to its range is contained in S (b) (4) (C) of N. L. R. A., which makes it an unfair labor practice for a union or its agent to engage in, or induce or encourage the employees of any employer to engage in, a strike or otherwise withhold their services where an object is to require any employer to recognize or bargain with a particular union as his employees' representative when another union has been certified.

#### VI. PREVENTION OF UNFAIR LABOR PRACTICES

##### *A. Jurisdiction*

Section 179.14 of M. L. R. A. provides for a suit in a county district court to enjoin a threatened unfair labor practice or one committed that would be continued unless restrained. Open court hearings are required with formal taking of testimony for both temporary and permanent injunctions. Proceedings must be expeditiously prosecuted.

Under section 10 of the N. L. R. A., proceedings to prevent the commission of unfair labor practices are, in the first instance, exclusively within the jurisdiction of the N. L. R. B., whose orders, issued after a formal hearing, are subject to review and enforcement by a Federal circuit court of appeals. Such proceedings are initiated by the general counsel of the N. L. R. B. before the members of the Board or a designated agent. In cases involving charges of secondary boycotts or jurisdictional disputes, the Board is authorized and in most cases required to apply to a Federal district court for a temporary injunction which may be issued when the Board's regional director has reasonable cause to believe that the charge is true.

##### *B. Clean hands doctrine*

Section 179.15 of M. L. R. A. provides that any employer, employee, or union that has violated any provision of the chapter governing labor disputes, shall not be entitled to maintain any action for injunctive relief.

There is no comparable provision in N. L. R. A.

#### VII. REPRESENTATION

##### *A. Majority rule*

Section 179.16, subdivision 1, of M. L. R. A. provides that representatives designated by the majority in an appropriate unit shall be the exclusive representative for collective bargaining respecting wages, hours, or other conditions of employment, providing that an individual or group of employees shall have the right to present grievances in person or through representatives of their own choosing.

Section 8 (a) of N. L. R. A. is identical except that grievances may not be presented by an individual through any other than the representative, though he may present grievances in person, and he may get them adjusted without the intervention of the representative who had the right to be present at the adjustment. Any adjustment must not be in conflict with the contract then in effect.

##### *B. Petition, investigation, certification, appropriate unit*

Section 179.16, subdivision 2, provides that when a question concerning representation is raised by an employee, group of employees, union, or employer, the State labor conciliator or his agent shall investigate the controversy and certify the representative selected. The conciliator shall decide whether the appropriate unit shall be the employer unit, craft unit, or plant unit, provided that a larger unit may be decided upon with the consent of all employers involved, and provided that when a craft exists, such craft shall constitute an appropriate unit. The conciliator may or may not provide for a hearing or ballot or may use any other method for ascertaining the representative. Only one investigation shall be made in 1 year unless it appears to the conciliator that reason exists for more than one.

Section 9 (a), (b), and (c) of N. L. R. A. is substantially the same. The following differences should be noted. The National Board's processes may be invoked by (1) an employee, a group of them, or an individual or union acting on their behalf, alleging that a substantial number of employees wish to be represented, or asserting that a certified or recognized union is no longer a representative; and (2) by an employer claiming that one or more individuals or unions have presented a claim for recognition as the representative. The Board investigates and conducts a hearing to determine whether a question concerning representation exists and, if so, provides for an election by secret ballot.



The power by the National Board under section 9 (b) of N. L. R. A. to designate the unit is not limited with respect to crafts, as is the State conciliator. A hearing may be waived by consent, but a secret ballot is mandatory. In determining whether a question concerning representation exists, the National Board must apply the same regulations and rules irrespective of the identity of the petitioners and of the kind of relief sought. Only one election may be held in a 12-month period. Employees on strike who are not entitled to reinstatement are not entitled to vote. In any election, if no choice receives a majority, a run-off shall be conducted between the two choices receiving the two highest number of votes. The National Board has generally held representation proceedings in abeyance when unfair labor practices are unremedied regardless of their nature. The National Board may decertify a union as well as certify one.

### *C. Jurisdictional dispute*

Section 179.083 of M. L. R. A. provides that where two or more unions claim jurisdiction over the same classification of work, or over the same employee, and where the claim is made the ground for picketing, or strike or boycott, the State labor conciliator shall certify the fact to the Governor, who may appoint a referee to hear and determine the controversy. After the appointment of the referee, it is unlawful for any person or union to call or conduct a strike or boycott, or picket the employer's establishment.

There is no similar provision in N. L. R. A. In some circumstances the foregoing activity would constitute a violation of section 8 (b) (4) (D) which would prohibit a strike to compel any employer to assign particular work to employees in a particular union, trade, craft, or class rather than to employees in another union, trade, craft, or class.

### *D. Strikes or boycotts—Interference with certification*

Section 179.27, chapter 414, laws of 1945, provides that it is unlawful for any employee, a representative of employees or a union to conduct a strike or boycott against an employer or to picket the employer's place of business in order to (1) deny the right of a representative certified by State or Federal authority to act as such representative; or (2) prevent such certified representative from acting as such; or (3) interfere with the business of the employer in an effort to do either (1) or (2). A cause of action for money damages is granted to an aggrieved employer.

Section 8 (b) (4) (C) of N. L. R. A. makes it an unfair labor practice to strike or induce the employees of any employer to strike or withhold their services where an object is to compel any employer to recognize or bargain with a particular union as representative of his employees if another union has been certified by the N. L. R. B. as representative. Section 303 of the L. M. R. A. permits an action for money damages.

## MISCELLANEOUS LAWS

### *I. Regulation of unions*

Sections 179.18 to 179.25 of chapter 625, Laws of 1943, is cited as "Minnesota Labor Union Democracy Act." The act requires mandatory elections of officers by secret ballot after reasonable notice to eligible voters. Officers charged with the responsibility of union money or property are required to furnish members in good standing annual statements of receipts and disbursements. Whenever the State labor conciliator believes that a union has been derelict in the performance of the duties imposed by these sections, he may certify the matter to the Governor who may appoint a referee to conduct a hearing. A union found derelict in its duties may not lawfully act as employees' representative. This disqualification may be removed by the State labor conciliator on proof of performance of the neglected duty.

There is no comparable provision in any Federal statutes except that section 9 (f) and (g) of N. L. R. A. requires that a union that seeks to avail itself of the National Board's procedures must file annual financial statements with the Secretary of Labor, and must file detailed statements of its organizational set-up. Should a union fail to comply, it may not invoke the Board's processes, but it may continue to act as a representative of employees.

### *II. Mandatory arbitration—Charitable hospitals*

Sections 179.35 to 179.39, chapter 335, Laws of 1947, regulate labor disputes involving charitable hospital employers and their employees. If the dispute is

not settled by conciliation under the conciliation provisions of the L. M. R. A., it must be submitted to arbitration. A strike or lock-out may be enjoined.

There is no comparable provision in any Federal statute.

#### L. M. R. A.—GENERAL

Unless otherwise indicated all references to sections under this heading are to chapter 440, laws of 1939, approved and effective April 22, 1939.

Unfair labor practices by employees:

*Strikes or boycotts*—To cause discrimination or coercion: Section 179.42, chapter 486, Laws of 1947, effective April 24, 1947.

*Secondary boycott*: Sections 179.40 to 179.47, chapter 486, Laws of 1947, effective April 24, 1947.

*Unlawful acts*: Sections 179.42 and 179.44, chapter 486, Laws of 1947, effective April 24, 1947.

*Representation; Interference with certification*: Section 179.27, chapter 414, Laws of 1945, effective April 20, 1945.

Miscellaneous laws:

*Regulations of unions*: Sections 179.19 to 179.25 of chapter 625, Laws of 1943, effective April 25, 1943.

*Mandatory arbitration—Charitable hospitals*: Sections 179.35 to 179.39, chapter 335, Laws of 1947, effective April 15, 1947.

#### MISSISSIPPI

References are to Mississippi Code of 1942, annotated, unless otherwise indicated.

1. Mississippi has no separate labor relations act similar to the N. L. R. A.

2. *Use of threat or force*

(a) Section 2126 makes it a felony to use force or violence or threat thereof to prevent any person from engaging in any lawful vocation within the State.

(b) Although there is no similar provision in the N. L. R. A., a violation of the above could also be an unfair labor practice under section 8 (a) (1) if an employer interfered with, restrained or coerced, or under 8 (b) (1) if a labor organization restrained or coerced, employees in the exercise of their right, under section 7, to self-organization, to form, join or assist labor organizations, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection, and to refrain from any or all such activities.

3. *Intimidating employees to abandon employment*

(a) Section 2416 makes it unlawful for any person who shall by placards, or other writing, or verbally, attempt by threats of injury to intimidate a person into an abandonment or change of home or employment.

(b) Although there is no similar provision in the N. L. R. A., a violation of the above could also be an unfair labor practice under section 8 (a) (1) if an employer interfered with, restrained or coerced, or under 8 (b) (1) if a labor organization restrained or coerced, employees in the exercise of their right, under section 7, to self-organization, to form, join or assist labor organizations, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection, and to refrain from any or all such activities.

Sections of the Mississippi Code of 1942 cited in the preceding pages were enacted as follows:

2. Use of threat or force: (a) Section 2126, chapter 323, Laws of 1942.

3. Intimidating employees to abandon employment: (a) Section 2416, section 1398; codes: 1906, section 1398; Hemingway's 1917, section 1141; code 1930, section 1173.

#### MISSOURI

1. Missouri has no separate labor relations act similar to N. L. R. A.

2. *Article I, section 29, Missouri Constitution*<sup>1</sup> (*right to organize and bargain*)

(a) Employees have the right to organize and bargain collectively through representatives of their own choosing.

<sup>1</sup> References are to Missouri Revised Statutes, 1939, unless otherwise indicated.

(b) Section 7, N. L. R. A. guarantees employees the rights of self-organization and of engaging in concerted activities for their mutual aid or protection; also, the right to refrain from such activity, except as such right may be affected by a valid union-security agreement.

3. *Senate bill 79, Laws of 1947, section 2 (1) (jurisdictional disputes)*

(a) Controversies between unions or between employer and employee groups over representation or work, will be settled between the parties to the dispute without work stoppage; otherwise they will submit the controversy to final and binding arbitration as is agreeable to the parties. Failing this, the industrial commission will upon application of either party, make a determination which is binding on all parties.

(b) Section 303, N. L. R. A., makes it unlawful for any labor organization to engage in jurisdictional strikes.

4. *Senate bill 79, Laws of 1947, section 2 (2) (representatives)*

(a) The industrial commission may conduct an election among employees for the purpose of determining the bargaining agent upon a majority vote.

(b) Section 9 (e) N. L. R. A. Employees are permitted to petition for an election to obtain representation for collective bargaining or to decertify an existing collective bargaining representative.

5. *Senate bill 79, Laws of 1947, section 344 (strike vote)*

(a) Employees will not strike unless such strike has been authorized by a majority vote of all employees eligible to vote at an election after notice to all voters, and held, not more than 60 days prior to such strike.

(b) Section 209 (b), N. L. R. A. The board will hold an election among employees, in national emergencies only, to determine whether they wish to accept the final offer of settlement made by their employer.

6. *Senate bill 79, Laws of 1947, section 5 (injunctive relief)*

(a) Collective-bargaining contracts are enforceable at law or equity, and a breach thereof is subject to the same remedies, including injunctive relief, as other contracts.

(b) Section 10 (j) and (l), NLRA, permits the board to apply to courts for a temporary restraining order when an unfair labor practice complaint has been issued but before determination of the issues by the board. Regional attorneys of the board are required to apply for injunctions against strikes or concerted activity by unions if an object thereof is an unfair practice under section 8 (b) (4) and if after investigation the attorney has reasonable cause to believe the charge is true.

7. *Senate bill 79, Laws of 1947, section 6 (strikes)*

(a) Employees will not strike (1) as a means of organizational inducement, unless the representative has been designated; (2) in jurisdictional disputes between unions; or (3) to induce an employer to comply with demands of other employees when such employee has no dispute with his employer.

(b) Section 8 (b) (4), NLRA, makes it an unfair-labor practice to engage in a strike, if an object thereof is in furtherance of a jurisdictional dispute or a sympathy strike.

8. *Senate bill 79, Laws of 1947, section 7 (public employees)*

(a) It is a misdemeanor for a State employee to strike.

(b) Section 305, NLRA, makes it unlawful for any Federal Government employee to strike and imposes discharge penalties for violation thereof.

9. *Senate bill 79, Laws of 1947, section 8 (secondary boycott and picketing penalty)*

(a) When no labor dispute exists between an employer and his employees, it is a misdemeanor for an employee to participate in an agreement to cease performing services or handle materials for the purpose of inducing such employer to refrain doing business with any other employer, or picket such other employer.

(b) Section 8 (b) (4), NLRA, provides that it is an unfair-labor practice to engage in or encourage the employees of any employer to engage in a strike or a refusal to handle or work on goods, if the object thereof is a boycott.

10. *Section 4631 (forcible entry)*

(a) It is a misdemeanor to take possession of real property by force.

(b) NLRA contains no like provision; however, discharge of employees under circumstances of unlawful seizure of property has been held proper.

11. *Section 8301 (combinations in restraint of trade)*

(a) Participation in an agreement in restraint of trade or competition, purchase or sale of any product bought or sold, is a conspiracy in restraint of trade.

(b) NLRA contains no like provision.

12. *Section 4635 (interference with employment)*

(a) It is a misdemeanor to force or by threat of violence to person or property, to compel any person to accept or abandon a lawful occupation or employment.

(b) Section 8, NLRA, makes it an unfair-labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of their self-organization right. Also, makes it an unfair-labor practice for a union to restrain or coerce employees in the exercise of their self-organization right, or to cause or attempt to cause an employer to discriminate against an employee, except for the nonpayment of dues under union-security agreement.

13. *Section 4643 (blacklisting)*

(a) It is unlawful to make or publish any false statement for the purpose of preventing any other person from obtaining employment.

(b) NLRA contains no like provision; however, blacklisting would violate section 8 of the act.

14. *House bill 563, Laws of 1941 (service letter)*

(a) Dismissed employee will receive from the employer, upon request, a letter stating the cause for discharge. Violation thereof is a misdemeanor.

(b) NLRA contains no like requirement.

15. *Sections 4523, 4625 (strikebreaking)*

(a) It is unlawful to import any person for the purpose of discharging the duties of peace officers in the protection of property.

(b) NLRA contains no like provision.

16. *Sections 11787, 11782 (interference with political activities)*

(a) It is unlawful to discharge any employee because of political activities, or political opinions or beliefs, or to influence voting of an employee by coercion, intimidation, or otherwise.

(b) NLRA contains no like provision.

17. *Section 11785 (time off to vote)*

(a) An employee is entitled to 4 hours off to vote on election day without penalty. Violators are guilty of a misdemeanor.

(b) NLRA contains no like provision.

18. *Section 3356 (check-off)*

(a) Assignment of wages not earned at time assignment is made is void.

(b) Section 302 (c), NLRA, allows an employer to turn over to the union checked-off dues, providing the check-off is voluntary and authorized by written assignment which is irrevocable for not more than 1 year.

19. *Sections 1-22, House Bill 180, Laws of 1947 (labor disputes in public utilities)*

(a) (1) *Mediation board*.—The State Board of Mediation consists of five governor-appointed members. The board has subpoena-issuing powers and enforcement thereof through county courts.

(2) *Settlement of labor disputes*.—Either party may apply to the board, or upon its own motion the board may confer with the parties and take whatever steps it deems expedient to settle the dispute.

(3) *Duration of collective-bargaining agreements*.—Contracts must be in writing, and continue for not less than 1 year. Such agreements will be presumed to continue from year to year unless written notice of desired changes are given to the other party and filed with the board within 60 days of termination thereof.

(4) *Expiration of contract*.—When a contract has expired and the terms thereof are continuing, if employees desire a contract or changes in working conditions, wages or hours or the utility desires changes therein, such party will inform the other party in writing and file a copy thereof with the board.

(5) *Employment without labor contract*.—When utility employees are working without a contract and the utility or the employees desire a change in terms of employment, the party desiring the change will, 60 days prior to desired effective date, inform the other party of the terms thereof in writing and file a copy of such terms with the board.

(6) *Failure to reach agreement.*—When the union and the utility fail to reach an agreement before termination of an existing agreement, each party, within 5 days after termination date, will designate a person as public hearing panel member and file such designation with the board. The two chosen will choose a third party and the three will act as a panel. Each party has an opportunity to be heard. Representatives will be designated by the parties without interference, influence, or coercion by either party. The panel will file a report and recommendations with the governor within 5 days after close of hearing. If either party fails to designate a panel representative or the two appointees do not agree upon the third member, the board will make necessary appointment.

(7) *Voluntary arbitration.*—Compulsory arbitration is not effective if contract contains arbitration clause unless such arbitration fails.

(8) *Seizure by governor.*—The governor has authority to take immediate possession of the utility for use and operation in the event of any strike or lock-out, if in his opinion failure to continue operation threatens the public interest, health, and welfare. It is made unlawful to strike thereafter, except that strikers may be hired as new employees. Union violating this provision must forfeit \$10,000 per each day of work stoppage, and the same penalty is provided for lock-outs by utility.

(9) *Refusal to bargain.*—A refusal to bargain by a public utility may result in revocation of its certificate of convenience and necessity if the evidence justifies such action by the public service commission.

(10) *Equitable relief.*—These provisions are enforceable by injunction.

(11) *No labor without employee's consent.*—An employee will not be required to work without his consent; nor will quitting be construed as illegal; nor may he be compelled to work by court order.

(b) NLRA contains no provision directed at a specific industry; however, section 8 (d) provides that where a contract exists, neither party may terminate it without giving the other party 60 days' notice of a proposal to do so. During such period the existing terms of the contract must be maintained. An employee who strikes within the 60-day period loses his status under the act unless he is reemployed by the employer.

#### Reference

	Date
2. Art. I, sec. 29, Missouri Constitution (right to organize) ..	1945.
3. S. B. 79, sec. 2 (1) (jurisdictional disputes) .....	1947.
4. S. B. 79, sec. 2 (2) (representatives) .....	1947.
5. S. B. 79, secs. 3 and 4 (strike vote) .....	1947.
6. S. B. 79, sec. 5 (injunctive relief) .....	1947.
7. S. B. 79, sec. 6 (strikes) .....	1947.
8. S. B. 79, sec. 7 (public employees) .....	1947.
9. S. B. 79, sec. 8 (secondary boycott and picketing penalty) ..	1947.
10. Sec. 4631 (forcible entry) .....	R. S. 1929 (1879).
11. Sec. 8301 (combinations in restraint of trade) .....	R. S. 1929. (1891).
12. Sec. 4635 (interference with employment) .....	R. S. 1929 (1889).
13. Sec. 4643 (blacklisting) .....	R. S. 1929 (1891).
14. H. B. 563 (service letter) .....	1941.
15. Secs. 4623 and 4625 (strikebreaking) .....	R. S. 1929 (1899).
16. Secs. 11787 and 11782 (interference with political activities).	R. S. 1929 (1897).
17. Sec. 11785 (time off to vote) .....	R. S. 1929 (1897).
18. Secs. 1-22 H. B. 180 (labor disputes in public utilities)---	1947.

#### MONTANA

1. Montana has no separate labor relations act similar to N. L. R. A.

2. *Section 10902<sup>1</sup> (right to organize and bargain)*

(a) Combinations of workers to lessen hours or increase wages are not within antitrust law.

(b) Section 7, N. L. R. B. guarantees employees the rights of self-organization and of engaging in concerted activities for their mutual aid or protection, also,

<sup>1</sup>References are to Revised Code, 1935, of Montana, unless otherwise indicated.

the right to refrain from such activity, except as such right may be affected by a valid union-security agreement.

3. *Section 11288 (strikes, picketing, boycotts, etc.)*

(a) Unlawful assembly provisions are violated whenever two or more persons assemble to do an unlawful act, without doing it, or to do a lawful act violently or boisterously.

(b) N. L. R. A. contains no like provision, however, "mass picketing" employees may be refused reinstatement on the basis of misconduct.

4. *Section 9242 (anti-injunction laws)*

(a) An injunction cannot be granted in labor disputes under any other or different circumstances than if the controversy were of a different character, or between parties other than laborers or those interested in labor questions.

(b) Section 10 (j) and (l), N. L. R. A., permits the Board to apply to courts for a temporary restraining order when an unfair-labor-practice complaint has been issued but before determination of the issues by the Board. Regional attorneys of the Board are required to apply for injunctions against strikes or concerted activity by unions if an object thereof is an unfair practice under section 8 (b) (4) and if after investigation the attorney has reasonable cause to believe the charge is true.

5. *Sections 3092, 3093 and 11219 ("blacklisting")*

(a) An employer who prevents or attempts to prevent a discharged employee, or one who voluntarily left his employment, from obtaining employment with another employer is guilty of a misdemeanor, and is liable in punitive damages to the former employee in a civil action.

(b) N. L. R. A. contains no like provision, however, if an employer engaged in such a practice he would violate 8 (a).

6. *Section 3094 (service letter)*

(a) Discharged employees must be furnished a letter upon demand stating the reason for his discharge. It is unlawful to fail to furnish such a letter.

(b) N. L. R. A. contains no like provision.

7. *Section 11220 (employment advertisement)*

(a) It is unlawful to fail to state in an advertisement for employment of workmen that there is labor trouble at the place of proposed employment when such labor trouble actually exists at such place.

(b) N. L. R. A. contains no like provision.

8. *Section 1741.9, 1049 Supplement (State police)*

(a) Members of the State highway patrol may not perform any duties in connection with labor disputes, strikes, or boycotts, and shall not act as a unit in one county to preserve the peace.

(b) N. L. R. A. contains no like provision.

9. *Section 11315 and article III, section 31, Montana Constitution (strikebreakers)*

(a) It is a criminal offense to import armed forces for the preservation of peace, except through permission of the legislative assembly or the Governor.

(b) N. L. R. A. contains no like provision.

10. *Section 10770 (political interference)*

(a) It is unlawful for an employer to enclose political propaganda in pay envelopes or threats or promises intended to influence employees' political opinion. Also it is unlawful to exhibit material to influence employees' political opinion within 90 days of an election.

(b) N. L. R. A. contains no like provision.

11. *Sections 3055-3058 (cooling-off period)*

(a) The State board of arbitration and conciliation will, upon application of either the employer or union, hear all interested parties to a dispute and make a decision. The parties to the application must agree not to strike or lock-out until such decision if it is made within 4 weeks. Such decisions are binding for 6 months or until either party gives notice to the other of intention not to be bound thereby at the expiration of 60 days therefrom.

(b) Section 8 (d): Where a contract exists neither party may terminate it without giving the other party 60 days' notice of a proposal to do so. During such period the existing terms of the contract must be maintained. An employee who

strikes within the 60-day period loses his status under the act unless he is reemployed by the employer.

*Section 11404 ("kick-backs")*

(a) It is a misdemeanor for any person to receive money from a person on account of employment or continued employment of such person.

(b) N. L. R. A. contains no like provision.

REFERENCE

2. Section 10902 (right to organize and bargain). Date reenacted 1921 (1909).
3. Section 11288 (strikes, picketing, boycotts, etc.). Date reenacted 1921 (1871).
4. Section 9242 (anti-injunction laws). Date reenacted 1922 (1895).
5. Sections 3092, 3093, and 11219 (blacklisting). Date reenacted 1921 (1891).
6. Section 3094 (service letter). Date reenacted 1921 (1891).
7. Section 11220 (employment advertisements). Date reenacted 1921 (1903).
8. Section 1741.9, 1939 Supplement (State police). 1939.
9. Section 11315 and article III, section 31, Montana Constitution (strike-breakers). Date reenacted 1921 (1895).
10. Section 10770 (political interference). Date reenacted 1921 (1895).
11. Sections 3055-3058 (cooling-off period). Date reenacted 1921 (1895).
12. Section 11404 (kick-backs). Date reenacted 1921 (1907).

NEBRASKA

Sections referred to are the Nebraska Revised Statutes, 1943.

Nebraska has no separate act similar to the National Labor Relations Act.

*I. Closed shop and union security limitations*

*Nebraska:* Constitutional amendment prohibits closed shop and union security agreements. (Secs. 13, 14, and 15 of art. 15 of the constitution.)

*Taft-Hartley Act:* The act contains no similar provision but section 8 (a) (3) prohibits such contracts.

*II. Picketing and boycotting*

*Nebraska:* It is unlawful for any person or persons to interfere or attempt to interfere with another in the exercise of his right to work or use obscene language for the purpose of inducing, influencing, or attempting to influence the person to quit employment, or to refrain from seeking or entering upon employment, or to threaten, coerce, intimidate in any manner such person for those purposes (sec. 28-812).

*Taft-Hartley Act:* This section of the Nebraska statute is covered by section 8 (b) (1) of the act which prohibits the restraining or coercion of employees in the exercise of their rights guaranteed in section 7.

*Nebraska:* It is unlawful for any person or persons to loiter about, patrol, or picket in any manner the place of business of any person, for the purpose of inducing, influencing, or attempting to induce, or influence, others not to trade with, buy from, sell to, work for, or have business dealings with such person, so that the lawful business of the person will be obstructed, interfered with, or damaged, and the person thereby induced or coerced to do something he may legally refrain from doing or may lawfully do (sec. 28-813).

*Taft-Hartley Act:* Prohibits the restraining and coercion of employees under 8 (b) (1) and strikes and secondary boycotts for certain purposes under 8 (b) (4), covers the Nebraska statute.

*III. Public policy as to labor disputes in public utilities*

*Nebraska:* "The continuous, uninterrupted, and proper operations of public utilities is essential to the welfare, health, and safety of the citizens of the State. It is contrary to the public policy of the State to permit any substantial impairment or suspension of the operation of any public utility by reason of industrial disputes therein and the State will exercise every power at its command to prevent the same so as to protect its citizens from any dangers or catastrophes which would result therefrom. The services of such public utilities are clothed with a vital public interest and to protect same it is necessary that the relations between the employers and employees in such industries be regulated by the State to the extent and in the manner herein provided" (sec. 48-822).

*Taft-Hartley Act:* The act declares that industrial strife can be avoided if employers, employees, and labor organizations recognize under law that neither party has any right in its relations with any other to engage in acts or practices

which jeopardize the public health, safety, or interest. And it is the purpose and policy of the act to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce (sec. 1 (b), sec. 201 (a)).

#### *IV. Machinery set up to handle public-utility disputes*

*Nebraska:* Act provides for court of industrial relations, consisting of three judges for term of 6 years. All industrial disputes involving the service of a public utility shall be settled by invoking the jurisdiction of the court of industrial relations. Any employer, employee, or labor organization, or State attorney general, when an industrial dispute exists, may file a petition with the court invoking its jurisdiction. When the jurisdiction of the court is invoked, notice shall be given and hearing fixed. After hearing, the court shall make its finding and enter its order. The findings of order or orders may establish or alter the scale of wages, hours of labor, or conditions of employment. Orders have same force and effect as orders entered by a district court and are enforceable in appropriate proceeding in the courts in the State of Nebraska. Failure to obey an order shall constitute contempt (sec. 48-822).

*Taft-Hartley Act:* No comparable provision. Title II creates the Federal Mediation and Conciliation Service, as well as providing machinery to handle emergency disputes (title II of act).

*Nebraska:* Any person [including organized group of persons] who hinders, delays, or suspends the continuity of service of any public utility, by lock-out, strike, slow-down, or other work stoppage shall be punished by fine of not less than \$10 nor more than \$5,000 (sec. 48-822).

*Taft-Hartley Act:* Nothing comparable in act. Act provides for injunctions against strikes and lock-outs in national emergencies (sec. 208).

#### *V. Unlawful assembly*

*Nebraska:* Three or more persons assembling with intent to do any unlawful act, with force and violence, against the person or property of another, or to do any unlawful act against the peace, or, being unlawfully assembled, agree with each other to do such unlawful act, and make any movement or preparation therefor, shall be punishable by fine of not more than \$100 and imprisonment for not more than 3 months (sec. 28-804).

*Taft-Hartley Act:* No comparable provision. Section 8 (b) (1) has been interpreted to mean that picketing cannot interfere, restrain, or coerce employees from their rights guaranteed in section 7.

#### *VI. Unfair employment practice—Discrimination in collective bargaining*

*Nebraska:* No representative agency of labor shall discriminate against any person because of his race or color in collective bargaining with employers (sec. 48-214).

*Taft-Hartley Act:* Section 9 (a) has been interpreted that exclusive representatives of employees must represent all equally.

I. Closed shop and union security limitations, 1946.

II. Picketing and boycotting: 1, 1921; 2, 1921.

III. Public policy as to labor disputes in public utilities, 1947.

IV. Machinery set up to handle public utility disputes, 1947.

V. Unlawful assembly, 1899.

VI. Unfair employment practice—Discrimination in collective bargaining, 1941.

### NEVADA

1. The State has no comparable labor relations act.

#### *2. Yellow-dog contracts*

(a) Section 10473 (Compiled Laws of 1929, as amended).

1. Makes unlawful entry into agreement whereby as condition of employment any person promises to become or not become, or continue to be, a member of a labor organization.

2. The L. M. R. A. contains no similar provision but section 8 (a) (1) and (3) prohibits such contracts.

#### *3. Right to organize and bargain*

(a) Section 2825.31 (Compiled Laws, etc.).

1. Grants workers for the purposes of collective bargaining or other mutual aid (a) full freedom of association, self-organization, and (b) designation of



representatives of their own choosing, and (c) freedom from interference, restraint, or coercion of employers.

2. Section 7 of the L. M. R. A. inter alia contains (a) (1) (a) above and provides that "Employees shall have the right of self-organization, to form, join, or assist labor organizations to bargain collectively through representatives of their own choosing."

Section 9 (a) of the L. M. R. A. inter alia contains the equivalent to (a) (1) (b) above but provides that the representative shall be selected by the majority of the employees in an appropriate unit.

Section 8 (a) of the L. M. R. A. inter alia contains (a) (1) (c) above and provides that "It shall be an unfair labor practice for an employer (1) to interfere with, restrain, or coerce employees in the exercise of rights guaranteed in section 7."

(b) Section 2825.32 (Compiled Laws, etc.).

1. Makes it unlawful to deny the representative of an adversary the right (a) to be present at hearings concerned with labor conditions of represented employees, and (b) to present the views, contentions, and demands of the parties.

2. Section 8 (a) (5) of the L. M. R. A. makes it an unfair labor practice to refuse to bargain collectively with the representatives of his employees. The proviso to section 9 (a) grants to individual employees the right to present grievances to the employer and to have them adjusted without intervention of the bargaining representative, provided that the bargaining representative has been given an opportunity to be present.

#### *4. Closed shop and union security limitations*

(a) Section 10473 (Compiled Laws, etc.).

1. Unlawful for an employing organization to enter into an agreement whereby any of its employees, or future employees, as a condition of employment shall promise or agree negatively or positively to become or continue a member of a labor organization.

2. The L. M. R. A. contains no similar provision, but section 8 (a) (3) prohibits such contracts.

#### *5. Penalties*

(a) Section 10474 (Compiled Laws, etc.).

1. Provides fines, or imprisonment, or both, for violators of the "yellow dog" and "closed shop" statutes

2. The L. M. R. A. contains no similar provision. However, section 10 empowers the Board to prevent unfair labor practices by cease-and-desist orders, and by affirmative action including reinstatement of an employee with or without back pay as more fully stated therein.

#### *6. Strikes*

(a) Section 2788 (Compiled Laws, etc.).

1. Notice of strike shall not be issued unless signed by three citizens of the State.

2. The L. M. R. A. contains no similar provision.

#### *7. Sabotage and other forms of destruction*

(a) Section 10271 (Compiled Laws, etc.).

1. Willful breach of employment contract endangering human life or exposing valuable property to destruction is a misdemeanor.

2. The L. M. R. A. contains no similar provision.

#### *8. Use of militia*

(a) Section 7140 (Compiled Laws, etc.).

1. Forbids use of militia during labor disputes.

2. The L. M. R. A. contains no similar provision.

#### *9. Peaceful assembly*

(a) Section 10482 (Compiled Laws, etc.).

1. Forbids restriction or prohibition of peaceful assembly by employees.

2. The L. M. R. A. contains no similar provision but section 8 (a) (1) forbids such acts by employers.

10. There are no laws regulating labor unions.

11. There are no anti-injunction laws.

*12. Blacklisting*

(a) Section 10462 (Compiled Laws, etc.).

1. Makes blacklisting unlawful.

2. The L. M. R. A. contains no similar provision but blacklisting would be prohibited by section 8 (a) (1) and (3).

*13. Notice of strike to prospective employees*

(a) Section 2846 (Compiled Laws, etc.).

1. No employment agent shall send an applicant to any place where a labor dispute exists without first giving him notice. False representation shall be a misdemeanor.

2. The L. M. R. A. contains no similar provision.

*14. Bribery of union officials*

(a) Section 10475 (Compiled Laws, etc.).

1. Bribery of union official to avoid a strike shall be a misdemeanor.

2. The L. M. R. A. contains no similar provision.

*15. Interference with employee political activities*

(a) Sections 10602-10604 (Compiled Laws, etc.).

1. Unlawful for any employer to pass any rule or regulation preventing or prohibiting employees' political activities or running for public office. Punishable by fine.

2. The L. M. R. A. contains no similar provision. However, section 304 (declared unconstitutional in part by the Supreme Court) prohibits expenditures of funds by labor organizations for political activities.

*16. Continuance of operations during arbitration*

(a) Section 2768 (Compiled Laws, etc.).

1. During arbitration of a labor dispute, no employee party thereto shall be discharged except for cause. Nor shall any labor organization representing employees, nor the employees, call aid, or write in, a strike against the employer. These obligations continue for 3 months after the award except on 30 days' written notice. Reduction of working force for business reasons not forbidden.

2. The L. M. R. A. contains no similar provision except that section 8 (d) (4) prohibits during the life of a collective-bargaining agreement, strikes or lock-outs during the cooling-off period. Further, discharge of an employee under the above circumstances would be protected by section 8 (a) (1) and (3).

*17. Company stores*

(a) Section 2768 (Compiled Laws, etc.).

1. Unlawful for any employer to compel his employees by unlawful means to purchase at a particular store or board at a particular place.

2. The L. M. R. A. contains no similar provisions.

*18. Discharge on detective's report*

(a) Section 2770 (Compiled Laws, etc.).

1. No employee shall be discharged without a hearing on the report of a "spotter."

2. The L. M. R. A. contains no similar provision.

*19. Mediation and arbitration*

(a) Is not compulsory.

(b) Section 510 (Compiled Laws, etc.).

1. Written arbitration agreement is enforceable and may not be revoked without consent.

2. The L. M. R. A. contains no such provision but section 8 (d) provides that collective-bargaining agreements may not be revoked or terminated without 60 days' notice; offer to bargain; 30 days notice to the Federal Mediation and Conciliation Service; and no lock-out or strikes during the said 60 days.

2. Yellow-dog contracts: (a) Section 10473, Revised Laws of 1912.

3. Right to organize and bargain:

(a) Section 2825.31, approved March 29, 1937.

(b) Section 2825.32, approved March 29, 1937.

4. Closed shop and union security:

(a) Section 10473, Revised Law of 1912.

(b) Penalties section 10474, Revised Laws of 1912.

6. Strikes: (a) Section 2788, approved March 17, 1923.

7. Sabotage and other forms of destruction : (a) Section 10271, Revised Laws of 1912.
8. Use of militia : (a) Section 7140, Laws of 1929.
9. Peaceful assembly : (a) Section 10482, Revised Laws of 1912.
12. Blacklisting : (a) Section 10462, Revised Laws of 1912.
13. Notice of strike to prospective employer : (a) Section 2846, approved March 28, 1919.
14. Bribery of union officials : (a) Section 10475, Revised Laws of 1912.
15. Interference with employee political activity : (a) Sections 10602-10604, March 6, 1915.
16. Continuance of operations during arbitration : (a) Section 2768, March 29, 1907.
17. Company stores : (a) Section 2768, March 29, 1907.
18. Discharge on detective's report : (a) Section 2770, February 27, 1915.
19. Mediation and arbitration :
  - (a) Not compulsory.
  - (b) Section 510, February 10, 1925.

### NEW HAMPSHIRE

1. *New Hampshire has no separate labor relations act similar to N. L. R. A.*
2. *Chapter 212, section 21, as amended*<sup>1</sup> (*closed-shop limitations*).
  - (a) (1) Freedom in employment. A person has the right to employment without discrimination because of membership or nonmembership in a labor organization. Employer and union may not agree (except as provided below) to make union membership a condition of employment or a continuation thereof, and injunctive relief may be secured to prevent a violation thereof.
  - (2) Section 21a. Exceptions. Employer and union may enter into a contract prohibited above, provided two-thirds of the employees voting in an election conducted by the State labor commissioner favor such a contract. Authorizations of this nature continue for not more than 2 years.
  - (b) Section 8 (a) (3) N. L. R. A. permits union-shop agreements, providing the union is certified by the Board after a vote of a majority of the employees authorize the union to make such an agreement. Under such an agreement the employer may employ a nonunion person but continued employment is conditioned upon membership in the union after 30 days.
3. *Chapter 212, section 21a, as amended* (*elections*).
  - (a) New elections may be conducted upon request of either party, provided the labor commissioner determines there is reasonable grounds that there is a "change in the attitude" of employees toward the contract since the prior election.
  - (b) Section 9 (c) N. L. R. A. employees are permitted to petition for an election to obtain representation for collective bargaining or to decertify an existing collective-bargaining representative. Certification or union-security elections cannot be held more frequently than once a year.
4. *Chapter 212, section 21a II, as amended* (*initiation fees*).
  - (a) The union must satisfy the labor commissioner that initiation fees are not unduly burdensome when renegotiating a contract. A fee over \$25 is considered excessive.
  - (b) Section 8 (b) (5) N. L. R. A. A union may not fix an initiation fee in an amount which the Board finds excessive or discriminatory under all the circumstances. No fixed amount is indicated as being excessive, however.
5. *Chapter 212, section 21a III, as amended* (*discrimination*).
  - (a) Contracts must contain a clause providing that discrimination will not be made on the basis of race, color, religion, etc.
  - (b) N. L. R. A. contains no like provision; however, discrimination of this nature would violate section 8.
6. *Chapter 212, section 21a IV, as amended* (*suspensions*).
  - (a) Contracts must contain a clause to the effect that suspensions will be for "just cause" only, subject to appeal to the labor commissioner.
  - (b) Section 10 (c), N. L. R. A. The Board will not require reinstatement of an employee who was suspended or discharged for "cause."

<sup>1</sup> References are to the Revised Laws of 1942, unless otherwise indicated.

7. *Chapter 212, section 21b, as amended (reports)*

(a) A union entering into a contract excepted by the act must file a complete financial statement annually with the labor commissioner together with a copy of its bylaws.

(b) Section 9 (f) and (g) N. L. R. A. As a prerequisite to processing a representations case, union-shop election, or charges of unfair labor practices, the union must have filed specified financial and organizational reports with the Secretary of Labor and its members. This information must be kept current by annual reports.

8. *Chapter 440, section 2 (interference with employment)*

(a) No person will prevent another from pursuing lawful work by offensive or annoying words.

(b) N. L. R. A. contains no like provision; however, "mass picketing" employees may be refused reinstatement on the basis of misconduct, but probably not based on offensive words alone.

9. *Chapter 442, section 26 (injunctive relief from interference)*

(a) Injunctive relief may be secured from interference with persons engaged in lawful work or on the way to or from work. It is not unlawful to reason or argue with a person to do or not to do any act which is lawful.

(b) Section 10 (j) and (1), N. L. R. A., permit the Board to apply to the courts for temporary restraining order when an unfair labor practice complaint has been issued but before determination of the issues by the Board. Regional attorneys of the Board are required to apply for injunctions against strikes or concerted activity by unions if an object thereof is an unfair practice under section 8 (b) (4) and if after investigation the attorney has reasonable cause to believe the charge is true.

10. *Chapter 212, sections 28-31 (strikebreaking)*

(a) It is unlawful for an employer to advertise for employees during a strike or lock-out to fill the places of strikers without plainly and explicitly stating that a strike or lock-out exists.

(b) N. L. R. A. contains no like provision.

11. *Chapter 210, sections 20-22 (cooling-off period)*

(a) Upon application of either party, the commissioner of labor will arbitrate labor disputes. If arbitration is agreed to the board decision is binding on the parties for 6 months, or until 60 days after notice of intention not to be bound thereby.

(b) Section 8 (d), where a contract exists, neither party may terminate it without giving the other party 60 days' notice of a proposal to do so. During such period the existing terms of the contract must be maintained. An employee who strikes within the 60-day period loses his status under the act unless he is reemployed by the employer.

12. *Chapter 212, section 23 ("kick-backs")*

(a) It is a misdemeanor to obtain money for procuring employment for a person in the service of the employer.

(b) N. L. R. A. contains no like provision.

References	Date
2. Ch. 212, sec. 21, as amended (closed-shop limitations)-----	1947
3. Ch. 212, sec. 21-a, as amended (elections)-----	1947
4. Ch. 212, sec. 21-A II, as amended (initiation fees)-----	1947
5. Ch. 212, sec. 21-A III, as amended (discrimination)-----	1947
6. Ch. 212, sec. 21-A IV, as amended (suspensions)-----	1947
7. Ch. 212, sec. 21-B, as amended (reports)-----	1947
8. Ch. 440, sec. 2 (interference with employment)-----	1885
9. Ch. 442, sec. 26 (injunctive relief from interference)-----	1887
10. Ch. 212, secs. 28-31 (strikebreakers)-----	1913
11. Ch. 210, secs. 20-22 (cooling-off period)-----	1911

## NEW JERSEY

(References are to the Revised Statutes of New Jersey, 1947, as supplemented, unless otherwise indicated)

1. New Jersey has no separate labor relations act, but has specific legislation for collective bargaining in public utilities which will be discussed herein.

## 2. *Yellow-dog contracts*

A. Sections 34: 12-2; 34: 12-3; and 34: 15-2: This provision makes yellow-dog contracts illegal and also makes a contract by the employer not to join or remain a member of any employer organization illegal. The L. M. R. A. has no provision involving employers in this connection. However, yellow-dog contracts are made unfair labor practices by section 8 (a) (1) and (3).

## 3. *Right to organize*

A. Article, section 19, New Jersey Constitution of 1947: The constitution provides for private employees to have the right to organize and bargain collectively. Public employees shall have the right to organize and make known their grievances and proposals through representatives of their own choosing. Section 7 of the L. M. R. A. provides: Employees shall have the right to organize and bargain collectively and that they shall have the right to refrain from such activities except in the case of a union-shop contract entered into under the provisions of the act. Section 305 of the L. M. R. A. makes it unlawful for any Federal employee to participate in any strike.

## 4. *Right to strike*

A. Section 34: 12-1: Two or more persons may continue to persuade others by peaceful means to enter into any combination for or against leaving or entering the employment of any person. There is no specific provision in the L. M. R. A. providing for the right to strike.

## 5. *Labor disputes in public utilities*

A. Section 34: 13 (b)-1, amended by Laws of 1947, chapter 75: Public utilities are clothed with public interest and the regulation of labor relations of such utilities including heat, light, power, sanitation, transportation, communication, and water is necessary in the public interest. There is no comparable provision in the L. M. R. A.

## 6. *Collective bargaining in public utilities*

A. Sections 34: 13 (b)-2, 34: 13 (b)-3: This section grants the employees in public utilities the right to organize and bargain collectively. It also provides that it is not unlawful to require membership in a labor organization, not company dominated, as a condition of employment. The State board of mediation is given power to determine controversies concerning representation. The provisions concerning collective bargaining in the L. M. R. A. are much broader than the New Jersey Statute. Section 7 grants all employees under the act the right to organize and bargain collectively. Section 8 (a) (3) grants the right to have a union contract under certain conditions following an election. Section 9 provides for the determination of representatives after an election.

## 7. *Collective bargaining contracts in public utilities*

A. Section 34: 13 (b)-4, 34: 13 (b)-6: This section provides that contracts in public utilities industries must be for a year and shall continue from year to year unless a party desiring a change files specific changes desired with the other party and with the State board of mediation at least 60 days before the termination date. There is no comparable provision affecting public utilities in the L. M. R. A.; however, section 8 (d) defines the duty to bargain collectively as including the conditions that no one shall terminate or modify an existing contract without notifying the other party 60 days prior to the time it is proposed to make such termination and modification.

## 8. *Changes in conditions not subject to contract in public utilities*

A. Section 34: 13 (b)-7: When a public-utility company or its employees wish to effectuate a change in the terms of employment, which are not the subject of the contract, the party desiring the change must inform the other party and the State mediation board not less than 60 days prior to the desired effective date thereof. The only provision in the Labor-Management Relations Act which might be comparable to this section is section 8 (d) which may be interpreted as requiring 60 days' notice before a change in conditions which are not included in the written contract.

## 9. *Procedures in public utilities labor disputes*

A. Section 34: 13 (b)-8, 34: 13 (b)-11, 34: 13 (b)-12, 34: 13 (b)-13: Unless the parties have agreed to submit all disputes to arbitration or have executed a

written agreement, they must within 5 days after the termination date of the contract, designate a representative to a panel. The two representatives they choose may choose a third member. The panel holds public hearings on the specific changes requested, within 15 days following their designation. Within 5 days after the close of the hearing the panel must report to the Governor setting forth the controversy, evidence, and recommendations. If either party fails to appoint a representative, or if the two parties cannot agree on a third, the State board of mediation makes the necessary appointment. The Governor is authorized to take possession of a public utility if the effective operation of the utility is threatened or interrupted by a strike. There are no comparable provisions affecting public utilities in the Labor-Management Relations Act, nor are there any powers of seizure, in the case of a strike in any industry. Under the national emergency provisions of the L. M. R. A., sections 206 through 210, the President is given the power to seek an injunction after a fact-finding board has made a report, the injunction so issued will be good for approximately 80 days, during which efforts at mediation are continued and a secret vote of the employees is taken to determine whether the employees wish to accept the final offer of settlement made by the employer. After the certification of the election, the Attorney General shall move the court to discharge the injunction and the President is required to submit a report to Congress, concerning the labor dispute.

#### *10. Compulsory labor*

A. Section 34; 13 (b)-15, as amended by Laws of 1947, chapter 75: An employee may not be required to engage in work without his consent. A similar provision is contained in section 502 of the L. M. R. A.

#### *11. Strikes in public utilities*

A. Section 34; 13 (b)-7, 34; 13 (b)-8, as amended by Laws of 1947, chapter 47, 34; 13 (b)-19, as amended by Laws of 1947, chapter 47, and amended by Laws of 1947, chapter 75: It is unlawful to participate in a strike in a utility which has been seized by the State. It is unlawful to engage in a strike or lock-out within 60 days after written notice of intent to conduct a strike or lock-out has been served on the other parties. This notice may be served on or after the termination of the contract or at or after the expiration of a notice of desire to make changes required to be served under section 34; 13 (b)-7, discussed above. There are no comparable provisions affecting public utilities in the L. M. R. A. except the provisions relating to national emergencies discussed above. Where the President has stated that a national emergency exists, a strike during the period of approximately 80 days may be enjoined.

#### *12. Board of arbitration in public-utilities disputes*

A. Section 34; 13 (b)-20, 34; 13 (b)-21, as amended by Laws of 1947, chapter 47, and amended by Laws of 1947, chapter 75; section 34; 13 (b)-22 as amended by laws of 1947, chapter 47; section 34; 13 (b)-23, as amended by Laws of 1947, chapter 47 and amended by Laws of 1947, chapter 75: This section provides for the appointment of a five-man Board of Arbitration by the Governor within 10 days after the State takes possession of the public utility. Management and labor each select a member and the two persons so chosen designate the remaining three members of the Board. In default of selection by either party, the Governor is empowered to appoint any necessary members. The Board must file findings, a decision and order with the Governor within 30 days after submission of the dispute. Such findings, decision, and order, unless modified or reversed on appeal, are conclusive. The national emergencies provision in the L. M. R. A., contained in sections 206 through 210, provide for the appointment of a Board to investigate a dispute; however, the Board's decision is not binding upon the parties. Furthermore, the Board's report may contain a statement of fact, including each parties' statement of its position but it may not contain any recommendations.

#### *13. Enforcement*

A. Section 34; 13 (b)-63, as amended by Laws of 1947, chapter 75: Violations of the act relating to disputes in public utilities may be prohibited by injunction. Under the L. M. R. A., violations of the provisions contained in sections 206 through 210 relating to national emergencies may be enjoined.

#### *14. Sabotage and other forms of destruction*

A. Section 2; 169-1-2; 169-2, 2; 148-16-2; 148-20: It is unlawful to break a stench bomb which damages the property or business of another or to willfully

or maliciously injure any electric wires or plant, steam engine, or mine appliances, manufacturing, or ice-harvesting machinery or, with intent to destroy or hinder operations, to run water into mines, or obstruct the shaft. There are no provisions in the L. M. R. A. specifically making such activities illegal.

#### 15. *Yellow-dog contracts*

A. Section 34; 12-5: Yellow-dog contracts are void and may not furnish a basis for legal or equitable relief. Yellow-dog contracts are not specifically mentioned in the L. M. R. A.; however, the yellow-dog contract would be an unfair labor practice under section 8 (a) (1) and (3).

#### 16. *Notice of strike to prospective employees*

A. Section 34; 1-65: The State employment bureau must keep a record of all labor disputes or strikes and give notice of the existence of such disputes to all applicants for employment that might be affected. There is no comparable provision in the L. M. R. A.

#### 17. *Strikebreaking*

A. Section 30; 4-99: The use of convict labor is forbidden to take the place of free labor locked out or on strike. There is no comparable provision in the L. M. R. A.

#### 18. *Bribery of union officials*

A. Section 2; 114-7: Bribery of a labor organization representative, and the acceptance of a bribe are made misdemeanors. Under section 8 (a) (2), the bribery of a union official by an employer would be an unfair labor practice. However, the provision above is somewhat broader, for it would apply also to bribery by another union, or to the acceptance of the bribe.

#### 19. *Discrimination in public works contracts*

A. Section 10; 2-1: Revised Statutes Cumulative Supplement: Public works contracts are required to contain provisions prohibiting discrimination in employment because of race, creed, or color, national origin. There are no comparable provisions in the L. M. R. A.

#### 20. *Discrimination in private employment—*

A. Section 10; 1-10: Revised Statutes Cumulative Supplement, section 10; 1-11, Revised Statutes Cumulative Supplement: It is unlawful in defense work for any employer to refuse employment to any person on account of race, creed, color, national origin, or ancestry. There is no comparable provision in the L. M. R. A.

#### 21. *Interference with political activity*

A. Sections 19; 34-27; 19; 34-30: It is unlawful for an employer to influence his employees' use of voting privileges by threats or force. Employers may not enclose statements in pay envelopes containing threats intended to influence the opinions or actions of their employees; neither may an employer, within 90 days of an election, post or exhibit handbills or placards in his place of business which are intended to influence his employees' political opinion or actions. There is no comparable provision in the L. M. R. A.

#### 22. *Bribery*

A. Section 2; 114-8: It is unlawful to give any supervisory employee, or for the supervisory employee to accept, a bribe to secure or retain employment. There is no comparable provision in the L. M. R. A.

### INDEX TO STATUTORY CITATIONS

The sections of the Revised Statutes, 1937, set forth on the preceding pages, were enacted or amended on the dates indicated below:

#### 2. Yellow-dog contracts:

Sections 34; 12-2, 3 enacted in 1894.

Section 34; 15-2, enacted in 1911.

#### 3. Right to organize: Section 19, State constitution adopted in 1947.

#### 4. Right to strike: Section 34; 12-1 enacted in 1883.

#### 5. Labor disputes in public utilities: Section 34; 13 (b)-1 enacted in 1946, amended in 1947.

#### 6. Collective bargaining in public utilities: Sections 34; 13 (b)-2, 3 enacted in 1946.

7. Collective-bargaining contracts in public utilities: Sections 34: 13 (b)-4, 6 enacted in 1946.
  8. Changes in conditions not subject to contract in public utilities: Section 34: 13 (b)-7 enacted in 1945.
  9. Proceedings in public utilities labor disputes:  
Section 34: 13 (b)-8 enacted in 1946, amended in 1947.  
Sections 34: 13 (b)-11, 12, 13 enacted in 1946.
  10. Compulsory labor: Section 34: 13 (b)-15 enacted in 1946, amended in 1947.
  11. Strikes in public utilities:  
Section 34: 13 (b)-7 enacted in 1945.  
Section 34: 13 (b)-8 enacted in 1946, amended in 1947.  
Section 34: 13 (b)-19 enacted and amended in 1947.
  12. Board of arbitration in public utilities disputes:  
Section 34: 13 (b)-20 enacted in 1947.  
Section 34: 13 (b)-21, 22, 23 enacted and amended in 1947.
  13. Enforcement: Section 34: 13 (b)-63 enacted and amended in 1947.
  14. Sabotage, etc.:  
Sections 2: 169-1, 2 enacted in 1933.  
Section 2: 148-16 enacted in 1898, amended in 1900.  
Section 2: 148-20 enacted in 1882.
  15. Yellow-dog contracts: Section 34: 12-5 enacted in 1932.
  16. Notice of strike to prospective employees: Section 34: 1-65 enacted in 1915.
  17. Strikebreaking: Section 30: 4-99 enacted in 1918.
  18. Bribery of union officials: Section 2: 114-7 enacted in 1911.
  19. Discrimination in public works contracts: Section 10: 2-1, Revised Statutes Cumulative Supplement enacted in 1933, amended in 1945.
  20. Discrimination in private employment: Sections 10: 1-10, 11, Revised Statutes Cumulative Supplement enacted in 1942, amended in 1945.
  21. Interference with political activity: Sections 19: 34-27, 30 enacted in 1930.
  22. Bribery: Section 2: 114-8 enacted in 1911.
- Note.—*Erratum*—"Revised Statutes of New Jersey 1947" should read "1937."

## NEW MEXICO

This State has no separate labor relations act similar to L. M. R. A.

### *Right to organize and bargain*

Section 51-1104<sup>1</sup> excepts labor organizations from the State antitrust laws. (The L. M. R. A. does not contain a comparable provision.)

Section 57-111 makes it unlawful for the State labor commissioner to advocate the organization, a changing in the organization or the disorganization of labor unions. (The L. M. R. A. does not contain a comparable provision.)

### *Unlawful assembly*

Section 41-1210, 1212, and 1218, provides for fine and imprisonment in the event three or more persons assemble and agree to do an unlawful act, actually commit such unlawful act, or refuse to disperse when so ordered. Members of such an unlawful assembly who do destroy any building or shop may be imprisoned for a maximum of 7 years. (The L. M. R. A. does not contain a comparable provision.)

### *Forcible detainer*

Section 67-220 provides that injunction may issue to restrain a person or corporate agent from the wrongful holding of mine property against the lawful possessor. (The L. M. R. A. contains no similar provision, although sec. 8 (3) has been interpreted by board decisions to deprive a person committing such an act of his rights under the L. M. R. A. and makes such person amenable to discharge.)

### *Injunctions*

Section 57-201, 202, permits the issuance of temporary restraining orders and permanent injunctions in any case involving or growing out of a labor dispute, provided that present or anticipated substantial and irreparable injury is established in a court proceeding. (This would correspond to sec. 10 (j) of the

<sup>1</sup> All references are to the New Mexico Statutes, 1941, unless otherwise indicated.



L. M. R. A. and sec. 10 (1) goes further inasmuch as under this section, the procurement of an injunction is mandatory under certain circumstances.)

### *Blacklisting*

Section 41-406, 408, provides for the punishment by fine of attempts to prevent a discharged employee from obtaining employment by blacklisting; and such employee may sue for damages. (Under sec. 8 (a) (1) and (3) and 8 (b) (1) and (2) of the L. M. R. A. such blacklisting, if attributable to union activities, would become an unfair labor practice; and under sec. 10 (c) back pay may be ordered by the board for such aggrieved employee.)

### *Arbitration*

Section 25-301 provides that all litigants shall have the right when they so wish, to terminate their suits, in whatever condition they may be, in any court of the State, by arbitration proceedings. (This would be comparable to sec. 203 of the L. M. R. A. which provides for the services of the Federal Mediation and Conciliation Service upon request of the parties.)

### *Political activity*

Section 56-516 prohibits an employer from adopting any rule to prevent his employees from engaging in political activities or from becoming a candidate for public office. (There is no comparable provision in the L. M. R. A. In contrast, sec. 313 contains a prohibition against political spending by labor organizations.)

NOTE.—In a referendum conducted in this State on November 2, 1948, a proposal to outlaw union security contracts was rejected.

## INDEX OF CITATIONS

References are to the New Mexico Statutes, 1941

	<i>Enactment date</i>
Right to organize and bargain: Sec. 51-1104-----	1923
Unlawful assembly: Secs. 41-1210, 41-1212, and 41-1218-----	1853
Forcible detainer: Sec. 67-220-----	1897
Injunctions: Secs. 57-201 and 57-202-----	1939
Blacklisting: Secs. 41-1406 and 41-1408 <sup>1</sup> -----	1912
Arbitration: Sec. 25-301-----	1859
Political activity: Sec. 56-516-----	1927

<sup>1</sup> This citation erroneously appears in the preceding memorandum as 41-406 and 41-408.

## NEW YORK

References are to the Consolidated Laws of New York, as amended and supplemented, unless otherwise indicated

### *I. Responsibility of labor unions and union officers and members for unlawful acts*

New York: Chapter 477, section 2, Laws of 1935, relieves from civil and criminal liability any organization, its officers and members, for the unlawful acts of other individual officers, members, or agents except upon proof of actual authorization of such unlawful acts or their ratification by the organization after actual knowledge that such unlawful acts had been committed.

Taft-Hartley Act: Section 2 (13), title I, provides that in determining whether any person is acting as an agent of a labor union, among others, so as to make such union responsible for his acts, the question of whether the acts were actually authorized or subsequently ratified shall not be controlling.

### *II. "Yellow dog" contracts*

New York: Chapter 6, section 17, as added by chapter 11, Laws of 1935, makes void agreements whereby the employee promises to join a company union, or the employer or employee promises to withdraw from or not to join a union or an employers' organization as a condition of the employment relationship.

Chapter 40, section 531, makes it a misdemeanor for an employer to coerce anyone to agree not to join a union as a condition of getting or holding a job.

State Labor Relations Act, chapter 443, Laws of 1937, section 703, gives employees the rights of self-organization and of forming and joining labor unions. (See also New York Constitution, art. I, sec. 17, for similar guaranty.) Section 704, paragraph 3, makes it an unfair labor practice for an employer to dominate, interfere with, or contribute support to labor unions. Section 704, paragraph 4, makes it an unfair labor practice for an employer to require an employee or

applicant for employment, as a condition of employment, to join a company union or to refrain from joining or forming a union of his own choosing. Section 704, paragraph 5, makes it an unfair labor practice for an employer to encourage membership in a company union or to discourage membership in a labor union by discrimination in hire or tenure of employees, and section 704, paragraph 10, makes it an unfair labor practice for employers to interfere with, restrain, or coerce employees in their right to join unions.

Taft-Hartley Act: Section 8 (a) (1), title I, makes it an unfair labor practice for an employer to restrain, coerce, or interfere with employees in their right to join a union.

Section 8 (a) (3), title I, makes it an unfair labor practice for an employer to discriminate against employees and applicants for employment because of membership in labor unions.

Section 8 (a) (2), title I, makes it an unfair labor practice for an employer to dominate or interfere with or contribute support to any labor organization.

### *III. Strikes against the public welfare*

New York: Chapter 40, section 1910, makes it a misdemeanor to break a contract of employment knowing or having cause to believe that the probable result will be to endanger life, cause bodily injury, or expose property to destruction or serious injury. This provision has been held applicable to certain strikes tending to have the results enumerated above.

Taft-Hartley Act: Sections 206-210, title II, authorize the Federal courts to grant temporary injunctions (effective for not more than 80 days) to the attorney general against actual or threatened strikes and lock-outs which will imperil the national health or safety.

### *IV. Discrimination by labor organizations*

New York: Chapter 6, section 43, as added by chapter 9, section 1, Laws of 1940, and as amended by chapter 292, section 5, Laws of 1945, forbids labor unions to deny membership or equal treatment of members because of race, creed, color, or national origin.

The State's Fair Employment Practice Act, chapter 18, Consolidated Laws, incorporated in the executive law, chapter 23, Laws of 1909 by chapter 118, Laws of 1945, section 131, makes it an unlawful employment practice for a labor union to discriminate in any way against employees, employers, or its members because of race, creed, color, or national origin.

Taft-Hartley Act contains no comparable provision.

NEW YORK STATE LABOR RELATIONS ACT (CH. 443, LAWS OF 1937, AS AMENDED BY CHS. 4, 126, 569, 634, 689, 750, 773, LAWS OF 1940; CHS. 210, 518, LAWS OF 1942; CH. 138, LAWS OF 1945; CH. 463, LAWS OF 1946) COMPARED WITH THE TAFT-HARTLEY ACT, TITLE I, UNLESS OTHERWISE INDICATED

#### *1. Findings and policy*

New York: Section 700 makes findings substantially similar to those contained in section 1 of the old Wagner Act by declaring the necessity for granting employees actual liberty of contract and equality of bargaining power with employers, and for encouraging collective bargaining as a means of lessening industrial strife inimical to the public safety, health, and welfare.

Taft-Hartley Act: section 1 declares that industrial peace can be best promoted if employers, employees, and labor unions respect each others' legitimate rights, and if they recognize that the public interest is paramount.

Section 1, title I is substantially similar to section 700 of the State law, *supra*, except that its object is to prevent industrial strife in industries affecting interstate commerce, and that it finds that such strife is due not only to denial by employers of the right of their employees to organize freely, but also to certain undesirable practices of labor unions.

#### *2. Definitions*

##### *A. Employer*

New York: Section 701, paragraph 1, includes all employers except labor unions unless acting as an employer.

Taft-Hartley Act: Section 2 (a) excludes the United States, Federal agencies and corporations, Federal Reserve Banks, States or political subdivisions thereof, nonprofit hospitals, persons subject to the Railway Labor Act, and labor unions unless acting as an employer.

*B. Employees*

New York: Section 701, paragraph 3, is substantially the same as Taft-Hartley section 2 (3), except that it specifically excludes temporary strikebreakers but does not specifically exclude independent contractors, supervisors, and employers of employees subject to the Railway Labor Act.

*C. Company unions*

New York: section 701, paragraph 6, defines same as a labor organization initiated, created or suggested by the employer or in whose administration or operations the employer participates, or which receives financial or other support from the employer.

Taft-Hartley Act does not define the term.

*3 Organization of the Board*

New York: Section 702 is substantially similar to sections 3-6, Taft-Hartley Act, except that there is no separation of the prosecuting and decision-making machinery, no prohibition on the employment of attorneys for the purpose of reviewing transcripts of hearings or preparing drafts of opinions, and no prohibitions on the review of trial examiners' reports or on consultation by trial examiners with the Board.

*4. Rights of employees*

New York: Section 703 grants employees the rights of self-organization, to form, join or assist labor unions, to bargain collectively through their freely-chosen representatives and to engage in concerted activities for mutual aid or protection.

Taft-Hartley Act: Section 7 grants employees the same rights but, in addition, it grants them the right to refrain from any of these activities.

*5. Unfair labor practices by employers*

New York: Section 704 forbids employers to engage in the following unfair-labor practices:

1. Spying upon the activities of employees or their representatives in the exercise of their rights of self-organization, collective bargaining and concerted activities.

2. and 9. Utilizing the "blacklist" for the purpose of preventing individuals from getting or holding employment because of their union affiliation or activities.

(Taft-Hartley Act does not specifically forbid practices 1, 2, and 9, but sections 8 (a) (1) and (3) have the same effect by making it an unfair-labor practice for an employer to interfere with, restrain or coerce employees in their union activities and to discriminate with respect to hire or tenure of employment against employees because of union membership or activities.)

3. Assisting or dominating labor unions. [Substantially the same as Taft-Hartley, sec. 8 (a) (2).]

4. and 5. Requiring employees or applicants for employment to join a company union or to refrain from joining any union, and encouraging membership in any company union or discouraging membership in any labor union in regard to hire or tenure of employment. However, collective agreements with unions which are the exclusive representatives of the employees in an appropriate unit, may require union membership as a condition of employment, i. e., the closed shop.

(Taft-Hartley Act sec. 8 (a) (2), makes it an unfair labor practice for an employer to assist or dominate a labor union, and sec. 8 (a) (3), to discriminate in regard to hire or tenure of employment by encouraging or discouraging membership in any labor union. However, employers may enter into collective agreements with the recognized exclusive bargaining representatives of employees requiring all employees, as a condition of continued employment, to join the union within 30 days, provided a majority of the employees in the unit have voted in a Board-conducted election to authorize such an agreement. Furthermore, no employer may justify discrimination against any employee for non-membership in a union if the employer has reasonable grounds for believing that such nonmembership was the result either of discrimination by the union, or some other reason other than failure to pay the required dues or initiation fees.)

6. Refusing to bargain collectively with the exclusive bargaining representative of the employees, which is identical with section 8 (a) (5) of Taft-Hartley.

7. Refusing to discuss grievances with the exclusive bargaining representative. Taft-Hartley has no comparable provision.

8. To discriminate against any employee who has initiated proceedings under the act or testified thereunder, which is identical in substance with section 8 (a) (1), Taft-Hartley.

10. Doing any acts, other than those enumerated above, which interfere with the rights granted employees by this act. This is substantially the same as section 8 (a) (1), Taft-Hartley.

### *Representatives and elections*

1. New York: Section 705 provides that the exclusive bargaining representative shall be the free choice of the majority of employees in an appropriate unit, that employees shall have the right, individually, to present grievances, and that the Board shall decide whether the appropriate unit is the employer unit, multiple-employer unit, craft unit, plant unit, or any other unit, except that a majority of employees in a particular craft may choose a craft unit.

(Taft-Hartley Act, sec. 9, is the same, except that employees may have grievances individually adjusted so long as not inconsistent with the collective agreement and the bargaining representative has an opportunity to be present, that professional employees may not be included in a unit unless a majority of them vote for inclusion, that craft workers may not be included solely on the basis of previous inclusion unless a majority so votes, that no unit is appropriate if it includes guards with nonguards, and no labor union shall be certified as bargaining representative of guards if such union admits nonguards or is affiliated with organizations admitting nonguards.)

2. New York: Section 705, paragraph 3, is similar to section 9 in the old Wagner Act. It provides that when an employee or union files a certification petition, the Board shall investigate, and if a question of representation exists, the Board shall provide for a hearing on due notice, conduct a secret ballot either before or after such hearing, and certify the bargaining representative selected. The Board is specifically prohibited from conducting a representation proceeding involving disputes between members of the same union or between unions affiliated with the same parent organization.

(Taft-Hartley Act, sec. 9 (c), authorizes such petitions to be filed by employers as well, limits elections to one in 12 months, and does not permit pre-hearing elections.)

3. New York: Section 705, paragraph 4, authorizes the Board to decide who are eligible to vote, and prohibits voting by temporary employees hired for the duration of a strike or lock-out.

Taft-Hartley Act, section 9 (c) (3), deprives of voting eligibility strikers who are not entitled to reinstatement. There are no other statutory limitations on the Board's power to determine voting eligibility.

4. New York: Section 705, paragraph 5, provides for run-off elections between the two nominees for exclusive representative who receive the largest number of votes where no nominee receives a majority.

Taft-Hartley Act, section 9 (c) (3), provides for a run-off election between the two choices receiving the largest number of votes even if one choice is "no union."

5. New York: Section 705, paragraph 6, authorizes the Board to exclude from the ballot any organization found by the Board to be company assisted or dominated in the course of the investigation of the question concerning representation.

Taft-Hartley Act contains no similar provision.

### *Prevention of unfair labor practices*

New York: Section 706, authorizes the Board to prevent employer unfair labor practices. It is substantially similar to section 10 of the Taft-Hartley Act except that it contains no time on the filing of charges, no requirement of service of a copy of the charge on the employer, no recommendation that the customary rules of evidence be adhered to, and no prohibition against reinstatement and back pay of an employee discharged for cause.

### *Judicial review*

New York: Section 707 authorizes the Board to petition the State Supreme Court to enforce its orders. It is substantially similar to section 10 of the Taft-

Hartley Act except that it makes the Board's finding conclusive if supported by substantial evidence, rather than supported by substantial evidence "on the record considered as a whole" as required by Taft-Hartley Act.

### *Investigatory powers*

New York: Section 708 gives the Board wide powers to investigate, subpoena of witnesses, documents, etc., and is substantially similar to section 11 of the Taft-Hartley Act.

#### NEW YORK—INDEX TO STATUTORY CITATIONS

The sections of the Consolidated Laws of New York, set forth in the preceding pages, were enacted or amended on the dates indicated below:

- I. Responsibility of labor unions, etc.: Chapter 477, section 2 enacted in 1935.
- II. Yellow-dog contracts:
  - Chapter 6, section 17 enacted in 1935.
  - Chapter 40, section 531 enacted in 1887.
  - State Labor Relations Act enacted in 1937 (see *infra*).
- III. Strikes against the public welfare: Chapter 40, section 1910 enacted in 1881.
- IV. Discrimination by labor organization:
  - Chapter 6, section 43 enacted in 1940; amended in 1945.
  - Fair Employment Practice Act, chapter 18, section 131, enacted in 1945.

#### NEW YORK STATE LABOR RELATIONS ACT, CHAPTER 443

- 1. Findings and policy, section 700 enacted in 1937, amended in 1940.
- 2. Definitions, section 701 enacted in 1937.
- 3. Organization of the Board, section 702 enacted in 1937, amended in 1940, 1945.
- 4. Rights of employees, section 703 enacted in 1937, amended 1940.
- 5. Unfair labor practices by employers, section 704 enacted in 1937.
- Representatives and elections: Section 705 enacted in 1937, amended in 1942.
- Prevention of unfair labor practices: Section 706 enacted in 1937.
- Judicial review: Section 707 enacted in 1937, amended 1942.
- Investigatory powers: Section 708 enacted in 1937.

### NORTH CAROLINA <sup>1</sup>

North Carolina has no separate labor-relations act similar to the National Labor Relations Act

#### CLOSED-SHOP AND UNION-SECURITY LIMITATIONS

##### *Closed shop prohibited*

The right to live includes the right to work, and the statute declares it to be the public policy of North Carolina that the right of persons to work shall not be denied or abridged on account of the membership or nonmembership in any labor union, or labor organization or association.

The statute also provides that contracts or agreements between employer and any labor organization whereby persons not members of such organization shall be denied the right to work, or whereby such membership is made a condition of employment or continuance of employment by such employer, constitutes an illegal combination or conspiracy in restraint of trade and is unlawful.

##### *"Yellow dog" contract*

The same statute, section 4, provides that no person shall be required by an employer to abstain from membership in any labor union or labor organization as a condition of employment. Section 6 of the same statute grants to individuals who are denied employment, or deprived of the continuance of their employment, by such a closed-shop or union-security contract, a cause of action for damages against both the employer and any person, firm, corporation, or association acting in concert with the employer.

<sup>1</sup>References are to the North Carolina Code of 1933, unless otherwise indicated.

## STRIKES, PICKETING, BOYCOTTS, ETC.

There are no laws covering strikes, picketing, and boycotting in North Carolina.

## REGULATION OF LABOR UNIONS

There are no laws regulating labor unions, as such, in North Carolina.

## ANTI-INJUNCTION LAWS

There are no anti-injunction laws analogous to the Norris-LaGuardia Act in the State of North Carolina.

## BLACKLISTS

No employer, after discharging an employee, shall attempt to prevent such discharged employee from securing employment elsewhere by blacklisting in any manner whatever such person (secs. 14-355, 14-356).

## CHECK-OFF OF UNION DUES

No employer shall require any person as a condition of employment to pay any dues, fees, or any other charges of any kind to any labor union or labor organization (sec. 5, H. B. 229, Laws of 1947).

NOTE.—The North Carolina closed-shop statute was recently held by the Supreme Court to be constitutional.

*Statute**Date.*

- |  |                        |
|--|------------------------|
| 1. Closed-shop union security limitations (ch. 328, Laws of 1947). | Enacted Mar. 18, 1947. |
| 2. "Yellow dog" contracts (ch. 328, Laws of 1947)-----             | Enacted Mar. 18, 1947. |
| 3. Blacklists (secs. 14-355, 14-356, North Carolina Code, 1943).   | Enacted 1909.          |
| 4. Check-off union dues (sec. 5, H. B. 229, Laws of 1947).         | Enacted Mar. 18, 1947. |

## NORTH DAKOTA

North Dakota does not have a separate labor relations act similar to the N. L. R. A. There are, however, several State statutes in the labor relations field. A brief discussion thereof with cross references to the Labor Management Relations Act of 1947 for purposes of comparison, will be found below.

## CHAPTER 242. LAWS OF 1947

*Coverage.*—Employers and employees engaged in interstate commerce are specifically exempted from the coverage of this statute.

*Purpose.*—The fundamental purpose of this statute is to prescribe certain limitations, declared to be in the public interest, upon the activities of labor organizations. The Federal statute on the other hand, is intended to prescribe the legitimate rights of both labor and management and to proscribe certain practices on the part of both labor and management which are deemed inimical to the public welfare (sec. 1).

*Reporting provisions.*—Sections 2, 3, and 4 of the State statute require the filing by labor organizations of annual reports with the secretary of State setting forth the name of the union, the names and addresses of all officers, the scale of dues, initiation fees, fines, and assessments and the salaries of its officers. Similar provisions will be found in section 9 (f) and (g) of the Federal statute.

*Bargaining representative.*—Section 5 of the State statute provides that a labor union may not act as bargaining representative in the State unless it complies with the reporting and other provisions of the statute. Sections 9 and 11 provide for a secret ballot among employees on the question as to whether a labor union shall be designated as bargaining representative and a union must receive at least 51 percent of the votes cast to be designated as bargaining representative. Under the Federal statute, no union may be certified as exclusive bargaining representative unless it complies with the affidavit and report filing provisions of the act (sec. 9 (f), (g), and (h)). A union, to be certified, must receive a majority of votes cast in a secret ballot (sec. 9 (c) (3)). Labor organizations which represent a majority of employees in an appropriate unit, may be recognized by

an employer as exclusive bargaining representative without a secret election however (sec. 9 (a)) even though such labor organization has not complied with section 9 (f), (g), and (h). Complaints will not be issued in connection with unfair labor practice charges filed by unions who are not in compliance.

*Right to strike.*—Under the provisions of sections 9, 10, 11, and 12 of the State statute, no strike shall be called against an employer unless such strike is approved by at least 51 percent of the employees voting in a secret ballot. If a strike is thus approved, it may not begin for a period of 30 days, and picketing must be in a peaceful manner and conducted only by employees of the establishment being picketed. If the strike is not approved in the election, picketing of any kind is declared unlawful and subject to restraint by the district court of the State and those participating therein are declared subject to suit for damages. Under the Federal statute, approval in an election is not a prerequisite to valid strike action except in national emergency situations under section 209, where the vote is on the question as to whether to accept the employer's last offer. Even in such situations, however, strikes may still be called regardless of the outcome of the election when the temporary injunction is vacated as provided in section 210. Under Federal statute, mass picketing is violative of section 8 (b) (1) (A) and employees who indulge therein are subject to discharge without right of reinstatement. Picketing under Federal law is not confined to employees of the establishment being picketed.

*Boycotting, secondary boycotting, and sympathy strikes.*—Section 13 of the State statute declares boycotting, secondary boycotting, and sympathy strikes to be illegal and subjects those who participate in such activities to injunctions and suits for damages. Comparable provisions will be found in the Federal statute in sections 8 (b) (4) in which certain types of strikes are characterized as unfair labor practices, and section 303 where the same types of strikes are declared unlawful, subjecting labor organizations to actions for damages. Section 10 (1) makes provision for issuance of injunctions in such situations.

*Suits by and against unions.*—Section 8 of the State statute provides for suit by and against unions in the official name filed with the secretary of State under section 2. Comparable provisions will be found in section 301 of the Federal statute.

#### CHAPTER 243. LAWS OF 1947

*Compulsory membership contracts.*—This State statute provides, in part, that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or organization. All contracts in negation or abrogation of such rights are declared invalid, void, and unenforceable. This section outlaws agreements providing for a closed shop, union shop or any other lesser forms of union security wherein membership in a labor organization is made a condition of employment. Under the Federal statute, closed-shop agreements are violative of section 8 (a) (3). Union-shop agreements are permitted, however, under specified conditions. Discharge for nonmembership even under valid union-shop agreements, however, are limited to situations where the employee has not paid initiation fees or dues uniformly required of all members.

#### SECTION 34.0802. REVISED CODE

*Right to organize and bargain.*—This State statute declares it to be the public policy of the State that a worker shall be free either to engage or to decline to engage in concerted activities for purposes of collective bargaining or other mutual aid and protection without interference or restraint or coercion by employers or their agents. The Federal statute contains comparable provisions in sections 7 and 8. It should be noted, however, that under section 7 a worker's right to refuse to engage in concerted activity may be limited by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8 (a) (3).

#### SECTION 34.0408. REVISED CODE

*"Yellow dog" contracts.*—Contracts between employer and employees whereby an employee promises not to join a union or promises to withdraw from the employment relation in the event he joins a union are declared illegal. Under the Federal statute, such agreements would be violative of section 8 (a) (1) and (3), although such agreements are not specifically prohibited by the sections.

## SECTION 34.0813, REVISED STATUTES

*Responsibility of labor unions.*—This State statute, like the Norris-LaGuardia Act, provides that a labor organization, participating in a labor dispute, shall not be held responsible for the unlawful acts of officers, members, or agents except upon clear proof of actual participation in or ratification of such acts after actual knowledge thereof. Section 2 (13) of the Federal statute provides that in determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question as to whether specific acts performed were actually authorized or subsequently ratified shall not be controlling. The same provision appears in section 301 (e) of the Federal statute.

## ARTICLE 17, SECTION 212, STATE CONSTITUTION

## SECTION 34.0107, REVISED CODE

*Blacklisting.*—Article 17 prohibits the exchange of blacklists between employers. The above section of the Revised Code makes blacklisting a misdemeanor, punishable by imprisonment for not more than 1 year or fine of not more than \$500, or both. Under the Federal statute, blacklisting of employees is not specifically prohibited. Under some circumstances, such activities of an employer may be considered violative of section 8 (a) (3) of the Federal statute.

## SECTION 34.0802, REVISED CODE

*Concerted activities.*—This section declares it the public policy of the State that a worker shall be free to engage or to decline to engage in concerted activities for the purposes of collective bargaining or other mutual aid and protection. Under the Federal statute, such activity is protected by section 7. The right to decline to engage in concerted activity is limited by the provisions in section 8 (a) (3) permitting union-shop agreements.

## Statute

## Date

- |  |                          |
|--|--------------------------|
| 1. Ch. 242, Laws of 1947 (Limitation on Activities of Labor Unions). | Effective July 29, 1948. |
| 2. Ch. 243, Laws of 1947 (Compulsory Membership Contracts).          | Do.                      |
| 3. Sec. 34.0802, Revised Code (Right to Organize and Bargain).       | Effective Mar. 13, 1935. |
| 4. Sec. 34.0408, Revised Code ("Yellow Dog" Contracts).              | Do.                      |
| 5. Sec. 34.0813, Revised Statutes (Responsibility of Labor Unions).  | Do.                      |
| 6. Sec. 34.0107, Revised Code (Blacklisting)-----                    | Enacted 1895.            |
| 7. Sec. 34.0802, Revised Code (Concerted Activities)--               | Effective Mar. 13, 1935. |

## OHIO

References are to Page's Ohio General Code, Annotated, 1937, as supplemented

## I. "Yellow dog" contract

Ohio: Section 6241-1 renders void and contrary to public policy any agreement of present or prospective employment whereby either the employer or employee agrees not to join or remain a member of any labor or employer organization.

Taft-Hartley Act: Section 8 (a) (1), title I, makes it an unfair labor practice for an employer to restrain, coerce, or interfere with employees in their right to join or remain members of any labor organization.

Section 8 (a) (3), title I, makes it an unfair labor practice for an employer to discriminate against employees and applicants for employment because of their union membership.

Section 8 (b) (1) (B), title I, makes it an unfair labor practice for a labor union to restrain or coerce an employer in his choice of bargaining or grievance-adjustment representatives.

## II. Compulsory company unionism

Ohio: Section 9012 forbids corporations to compel employees to join any association or to withhold part of their wages as dues in such association, and to make either of these requirements a condition of employment.



Taft-Hartley Act: Section 8 (a) (1), title I, makes it an unfair labor practice for an employer to restrain, coerce, or interfere with employers in their right to refrain from joining any labor organization.

Section 8 (a) (3), title I, makes it an unfair labor practice for an employer to discriminate against employees and applicants for employment because of their nonmembership in labor unions.

Section 8 (a) (2), title I, makes it an unfair labor practice for an employer to dominate or interfere with or contribute support to any labor organization.

Section 302, title III, prohibits deduction from wages of union membership dues unless the employee authorizes such deduction in writing.

### *III. Check-off of union dues*

Ohio: Section 6346-13 as amended by S. B. 295, Laws of 1939, and by H. B. 59, Laws of 1945, authorizes employment or collective contracts between employers and employees or labor unions which provide for the check-off of union dues.

Taft-Hartley Act: Section 302, title III, permits deduction from membership dues from the wages of employees only where the employee affected authorizes such deduction in writing. Furthermore, such authorization can be irrevocable for no longer than 1 year or the life of the applicable collective agreement, whichever is the shorter.

### *IV. Political contributions*

Ohio: Section 4785-192 prohibits the use of corporate funds for political purposes.

Taft-Hartley Act: Section 304, title III, makes unlawful any contribution or expenditure by labor unions as well as corporations in connection with any Federal election, primary or nominating caucus.

### *V. Strikes by public employees*

Ohio: Section 17-8, 9, 10, Supplement 1947, prohibits public employees from striking and punishes violations with termination of employment and loss of striking employee's rights.

Taft-Hartley Act: Section 305, title III, makes it unlawful for Federal employees to strike and punishes violations by immediate dismissal, loss of civil-service status, and ineligibility for Federal reemployment for a period of 3 years.

### *VI. Incorporation of labor unions*

Ohio: Section 8623-98 forbids the secretary of state to file any articles of incorporation containing the words "union" or "labor union."

Taft-Hartley Act has no comparable provisions.

## INDEX TO STATUTORY CITATIONS

The sections of the General Code, Annotated, 1937, set forth in the preceding pages, were enacted or amended on the dates indicated below:

- I. Yellow-dog contract: Section 6241-1 enacted in 1931.
- II. Compulsory company unionism: Section 9012 enacted prior to 1930.
- III. Check-off: Section 6346-13 enacted prior to 1930 and amended in 1939 and 1945.
- IV. Political contributions: Section 4785-192 enacted prior to 1930.
- V. Strikes by public employees: Section 17-8, Supplement 1947 enacted in 1947.  
Section 17-9, Supplement 1947 enacted in 1947.  
Section 17-10 Supplement 1947 enacted in 1947.
- VI. Incorporation of labor unions: Section 8623-98 enacted in 1935

## OKLAHOMA

### LABOR LAWS OF STATE OF OKLAHOMA

Oklahoma has no separate labor relations act similar to the National Labor Relations Act but there are several statutes affecting various phases of labor relations.

#### TITLE 40 CHAPTER 5, SECTION 166. RIGHT TO ORGANIZE, ETC.

No agreement with respect to a labor dispute may be punished as a conspiracy, unless the act would be a crime if committed by one person, or construed as a

restraint of trade. The Federal statute provides affirmatively in section 7 for the right to organize and bargain collectively; by the several provisions of section 9 provides for exclusive representation by a union in bargaining when so voted by a majority of employees; and, in section 8 makes such bargaining compulsory both upon the employer and the union.

TITLE 21, CHAPTER 30, SECTIONS 837 AND 838. INTERFERENCE WITH EMPLOYEES AND EMPLOYERS

By force, threats or intimidation, preventing or compelling (sec. 837) an employee not to work or accept work or to quit work (sec. 838) an employer to employ or not to employ anyone or to change his mode of business or to limit or increase the number of employees or their wages or hours, are both made misdemeanors. Sections 8 (a) (1), (3), and (4) of the Federal statute prohibits an employer from interfering with, coercing or restraining his employees with respect to unionization and by discrimination encouraging or discouraging unionization or discriminating against them because of filing charges with the Board or testifying under the statute; while section 8 (b) (1) prohibits restraint or coercion of employees by unions in the exercise of their rights to join or not to join a union. As compared with section 838 of the State statute, section 8 (b) (2) of the Federal statute specifically prohibits a union's causing an employer to discriminate against an employee to encourage or discourage union membership or against an employee who has been denied membership in a union or whose membership has been terminated for reasons other than failure to pay regular dues or initiation fees, but there is no showing of force, etc., required. Neither is there any showing of force, etc., required in section 8 (b) (4) which prohibits strikes and refusals to handle goods for the purpose (A) of forcing an employer to join a union or to cease handling the goods of another or doing business with another; (B) forcing an employer to recognize a union unless the Board has certified it; (C) forcing an employer to recognize a union if another union has been certified by the Board; (D) forcing an employer to assign particular work to one union rather than to another except upon order by the Board. Section 8 (b) (6) makes it an unfair labor practice for a union to cause or attempt to cause an employer to pay for service not performed or not to be performed.

TITLE 21, CHAPTER 55, SECTION 1314. UNLAWFUL ASSEMBLY

An unlawful assembly is defined as an assembly by three or more persons with intent or with the means and preparations to commit a riot, even though they do not act, and an assembly without authority of law in manner adopted to disturb the peace. This would cover certain types of picketing. There is no comparable section of the Federal statute, but picketing accompanied by force or threats or in such manner as to seriously hamper ingress and egress has been held to be an unfair labor practice under section 8 (b).

TITLE 40, CHAPTER 5, SECTIONS 169, 170, 171, 172, AND 173. SPECIAL PROVISIONS WITH RESPECT TO EMPLOYERS' DEALINGS WITH EMPLOYEES

The employer may not hire armed guards without a permit (sec. 169) where workmen are transported into or within the State. When he advertises for or engages new employees, he must state truthfully the work, the pay, the sanitary conditions, and the existence or nonexistence of a strike, lock-out or labor dispute (sec. 170). Upon request he must furnish each employee who quits or is discharged with a service letter stating truthfully the reasons for discharge or quitting (sec. 171). He must not blacklist an employee or cause him to be blacklisted (sec. 172). Violations of each of these sections subject the employer to a fine. These provisions do not appear in the Federal statute but blacklisting would be an unfair labor practice under section 8 (a) (1).

TITLE 26, CHAPTER 14, SECTIONS 438, 440, AND 441. PROTECTION OF RIGHT TO VOTE

Employers are required to give their employees time off to vote and are prohibited from attempting to influence or control and from influencing or controlling the employee's vote. Violations are punishable by fine. There is nothing comparable in the Federal statute.

## TITLE 40, CHAPTER 1, SECTIONS 6 AND 7. ARBITRATION, ETC.

A State board of arbitration and conciliation is required to seek arbitration whenever there is threat of a strike or lock-out involving 25 or more persons, and it is provided that notice shall be given the board by mayors, justices and chief executive officers of the union. When public welfare is involved and neither party will arbitrate, the board is required to investigate and publish its findings. Somewhat similar powers are given the Federal Mediation and Conciliation Service under sections 203 and 205 of the Federal statute with respect to labor disputes, but the Service is authorized to offer its services whenever the dispute threatens a substantial interruption of commerce. Where there is a collective-bargaining contract in force, the parties must notify the Service within 30 days if a dispute arises with respect to termination or modification, and there may be no strike or lock-out within 60 days of the notice under section 8 (d). This duty is inapplicable, however, if the Labor Board certifies that the union has been superseded or is no longer the employees' representative or before the contract according to its terms may be terminated or modified.

The parties to a dispute are also required to use the Service for settlement after the issuance of an injunction in any case which the President finds may imperil the national health or safety under section 209 (a). The Federal statute, however, gives the Service no power of subpoena.

All sections of the Oklahoma Statutes referred to in the preceding pages were enacted in 1910.

## OREGON

## LABOR LAWS OF THE STATE OF OREGON

There is no separate labor relations act similar to the National Labor Relations Act but there are several statutes affecting various phases of labor relations.

## SECTION 102-914. "YELLOW DOG" CONTRACTS

Agreements not to become or remain a member of a union or to withdraw from employment if the employee becomes a union member are made unenforceable.

No express provision appears in the Federal statute but such a contract would be an unfair labor practice under sections 8 (a) (1) and (3), which provide against interference with the employer's right to organize and encouragement or discouragement of unions by discrimination against employees.

## SECTIONS 102-901 AND 905. RIGHT TO ORGANIZE, ETC.

Prosecution of persons is forbidden for combining to lessen hours of labor, to increase wages, or to better working conditions unless the act is unlawful for a single person, and organization of unions for these purposes is made lawful. Section 7 of the Federal statute spells out at length the right to self-organization and collective bargaining, as well as the right not to join unions except where a union has a lawful agreement requiring union membership.

## SECTIONS 23-1057 AND 102-805. INTERFERENCE

It is unlawful for anyone by threats or intimidation to attempt to prevent or compel or to compel another to join or not to join a union. A nominal fine for violation is imposed.

It is also made a misdemeanor subject to fine to attempt by force or threats to prevent anyone from accepting or continuing work or to circulate false written matter (1) to induce anyone not to deal with a person for the purpose of preventing him from employing any person or (2) to compel anyone to alter his mode of business or to limit or increase the number of employees or the rate of wages or time of service.

As to interference by employers, sections 8 (a) (1) and (3) of the Federal statute is broader in that any interference is made an unfair labor practice and the interference may fall far short of compulsion; furthermore, it is an unfair labor practice to encourage and discourage union membership by any discrimination against an employee. As to interference by a union, section 8 (b) (1) makes it an unfair labor practice to restrain or coerce the employee to join or not to join a union, and the restraint need not amount to intimidation. It is also an unfair labor practice under section 8 (b) (3) for a union to cause or attempt to cause discrimination by an employer on the basis of membership or

nonmembership in a union. The right of the union to prescribe its own membership rules is expressly reserved. Section 8 (b) (6) makes it an unfair labor practice for a union to cause or attempt to cause an employer to pay for services not performed or not to be performed but under section 8 (c) the circulation of written matter is not an unfair labor practice unless it contains threats of reprisal or force or promise of benefit.

SECTIONS 102-912 (A), (B), (C), (D), 1944-1947 POCKET PART. SELECTION OF BARGAINING AGENT, ETC.

Upon the petition of an employer or employee in a collective-bargaining unit, the commissioner of labor is required to hold an election by secret ballot on the employer's premises to determine whether a labor dispute shall be continued and, if requested, whether a union shall be designated as collective-bargaining agent, and the commissioner certifies the result to the parties. As to the labor dispute, the majority vote is made binding for a year. Employees are eligible to vote 30 days after termination of their employment. The collective-bargaining unit is defined as all the employees of an employer or members of a single craft or employees in separate departments or premises.

The provision for vote on current labor disputes in the Federal statute appears in section 209 but applies only to disputes which the President has found may imperil the national health and safety. In those cases a special board of inquiry conducts a secret ballot to determine whether the employees wish to accept the last offer of the employer 15 days after a 60-day period following the issuance of an injunction and certifies the result to the Attorney General.

Extensive provisions for the election of bargaining representatives are made by section 9 of the Federal statute and, if a representative is elected by a majority, the representative becomes the exclusive bargaining agent. The vote may also be for no representative. Only one election may be held each year. Subject to specific exceptions, the Board is empowered to determine what bargaining unit is appropriate for the election.

SECTIONS 102-927, 928 AND 930, 1944-1947, POCKET PART. "HOT CARGO" AND "SECONDARY BOYCOTTS"

"Hot cargo" and "secondary boycott" are declared unlawful. "Hot cargo" is defined as any combination or agreement resulting in the refusal of an employer or of employees to handle goods or perform services because of an agreement or a dispute between another employer and his employees or a union. "Secondary boycott" is defined as any combination or agreement to cease or cause an employee to cease performing a service or to cause loss or injury to an employer or his employees for the purpose of inducing the employer to stop doing business with or handling the goods of another employer because of an agreement or a dispute between the other employer and his employees or a union. "Employers" are defined to include growers, and "employees" as any person who works for compensation. Any act, combination, or agreement which induce a violation of these provisions or cause loss, injury, or damage because of a refusal to violate is unlawful. In private suits courts are empowered to issue injunctions and assess damages for violations.

The Federal statute in section 8 (b) (4) makes it an unfair labor practice for a union to strike or refuse to handle goods or perform services or to induce or encourage employers to do so for any one of four purposes: (a) To force an employer to join a union or to cease handling the goods of another or doing business with another; (b) to force an employer to recognize a union unless the Board has certified it; (c) to force an employer to recognize a union if another union has been certified; (d) to force an employer to assign particular work to one union rather than to another except upon order of the Board. In the first three cases and, where relief is appropriate, in the fourth also the proper official is required to make application to a Federal district court for appropriate injunctive relief.

Section 303 also makes the same acts by a union unlawful and provides for suit by any injured party to recover costs and damages in a district court subject to the limitations of section 301, which provides that unions are bound by the acts of their agents, as defined, may be sued as an entity and may have money judgments enforced against them as an entity—not against their members. Section 301 also sets forth judicial requirements of the district court where the suit may be brought.

## SECTION 102-806. BLACKLISTING

Blacklisting by an employer is forbidden. The Federal statute contains no express provision but section 8 (a) (1) would make blacklisting an unfair labor practice.

## SECTION 102-804. ADVERTISEMENTS

It is unlawful for an employer to advertise falsely as to wages, strikes, lock-outs, or labor troubles or to omit in an advertisement statements as to strikes, lock-outs, or labor troubles which exist or to import labor to work in any of the departments of labor. Penalties for violation are provided. It is also unlawful for an employer to file a false statement as to wages, work, or working conditions with an employment agency. The Federal statute contains no such provision.

## SECTIONS 23-643 AND 23-644. ARMED GUARDS

It is forbidden to organize or employ an armed body of men for the purpose of discharging the duties of the regular police or an armed or uniformed patrol system not under the proper municipal department. There is no such provision in the Federal statute.

## CHAPTER 508, LAWS OF 1947, AND SECTION 102-319, DISCRIMINATION

The public policy of the State is to encourage employment regardless of race etc. or union membership and to safeguard rights to employment without discrimination. The same policy is also specifically applied to public employment.

Discharge of employees for testimony under female or union labor acts is forbidden and penalties are provided for violation and for discharge for anticipated testimony.

The Federal statute does not contain provisions with respect to discrimination for race, etc., but sections 8 (a) (1) and (3) make it an unfair labor practice for employers to discriminate because of union membership and section 8 (a) (4) makes the discharge for testimony under the statute an unfair labor practice.

## SECTION 23-706. INTERFERENCE WITH POLITICAL ACTIVITIES

It is made a misdemeanor for an employer to use force, threats, fraud, or intimidation to interfere with employees' voting rights or to print political matter on pay envelopes or within 90 days of an election to post arguments to influence political action of employees.

The Federal statute contains no such provision.

## SECTIONS 102-201, 204, 205, 206, 207, 208, 209, 211, 212, 213, 214, AND 11-601.

## MEDIATION AND ARBITRATION

The State board of conciliation is required to ascertain the causes of and to endeavor to adjust any labor dispute which may not be the subject of court action or which involves a strike or lock-out where an employer has more than 49 employees. It is given full subpoena powers for investigation by public hearing. If either party is dissatisfied with the findings and recommendations and if both agree to submit to arbitration and to abide by the award, the board of arbitration, which has the same powers as the board of conciliation, proceeds to an investigation, findings, and award. If one party refuses to arbitrate, the board of conciliation files a copy of its findings and recommendations with the clerk of the county court and with the commissioner of labor. Under sections 203 and 205 of the Federal statute the Federal Mediation and Conciliation Service is authorized to offer its services whenever the dispute threatens a substantial interruption of commerce. Where there is a collective-bargaining contract in force, the parties must notify the Service within 30 days if a dispute arises with respect to termination or modification, and there may be no strike or lock-out within 60 days of the notice under section 8 (d). This duty is inapplicable, however, if the Labor Board certifies that the union has been superseded or is no longer the employees' representative or before the contract according to its terms may be terminated or modified.

The parties to a dispute are also required to use the Service for settlement after the issuance of an injunction in any case which the President finds may

imperil the national health or safety under section 209 (a). The Federal statute, however, gives the Service no power of subpoena.

The sections of the statutes of the State of Oregon referred to in the preceding pages were enacted or amended on the following dates:

Section No.	Enacted	Amended	Section No.	Enacted	Amended
102-914 .....	1933	-----	102-804 .....	1919	-----
102-901 .....	1919	-----	23-643, 644 .....	1899	-----
102-905 .....	1919	-----	Ch. 508 h 1947 .....	1947	-----
23-1057 .....	1903	-----	102-319 .....	1913	-----
102-805 .....	1854	1891	23-706 .....	1901	-----
102-912 .....	1947	-----	102-201, 204, 205, 296, 207, 208, .....		-----
102-927, 928, 930 .....	1947	-----	203, 211, 212, 213, 214 .....	1919	-----
102-806 .....	1903	-----	11-601 .....	1919	-----

### PENNSYLVANIA

Pennsylvania Labor Relations Act of June 1, 1937 (act No. 294), Public Law 1168 as amended, provides for the regulation of some aspects of labor relations. It is in many respects similar to, and in many respect different from, the Labor Management Relations Act, 1947. Other acts regulate other aspects of labor relations in some public utilities and regulate the issuance of injunctions in connection with certain labor disputes.

#### P. L. R. A.

##### *I. Findings and policy*

The findings and policies expressed in the State act are similar to but not identical with those stated in the Wagner Act.

##### *II. Definitions*

The definitions in section 3 of P. L. R. A. as amended by act of June 9, 1939, Public Law 293, act of May 27, 1943, Public Law 741, and act of June 5, 1947, Act No. 188, are somewhat similar to those in N. L. R. A. with some noteworthy exceptions. The term "employer" in P. L. R. A. includes a person acting in the interest of an employer whereas the term in N. L. R. A. includes only the agent of the employer. An individual having the status of an independent contractor and a supervisor are not expressly excluded from the definition of "employee" in P. L. R. A., whereas they are expressly excluded in the N. L. R. A. Excluded from the P. L. R. A. definition of "labor organization" (in this memo referred to as union) are those unions which deny persons membership on account of race, creed, color, or political affiliation, a provision not found in N. L. R. A.

##### *III. Rights of employees*

Employees are given the right to self-organization, to form, joint or assist unions to bargain collectively through their chosen representatives and to engage in concerted activities for collective bargaining or other mutual aid or protection. (Sec. 5, P. L. R. A.)

Under the N. L. R. A., employees, in addition to the foregoing, are expressly granted the right also to refrain from such activities except as the right may be affected by a union-shop contract entered into as authorized by section 8 (a) (3) (sec. 7, N. L. R. A.).

##### *IV. Unfair labor practices by employer*

##### *A. Restraint and coercion, domination and assistance discrimination, reprisal for filing charges or testifying, and refusing to bargain*

These provisions of P. L. R. A., section 6, (1) (a) (b) (c) (d) and (e), are identical with sec. 8 (a) (1), (2), (3), (4), and (5) except as set forth in the following paragraph.

*B. Compulsory membership, closed and union shops*

A proviso to section 6 (1) (c) of P. L. R. A. permits an agreement, between an employer and an unassisted union, which may require union membership as a condition of employment if (1) the union is the employees' representative in an appropriate unit; and (2) the union does not deny membership to those employed at the time of the making of the agreement, except with respect to an employee hired in violation of a previous agreement.

The proviso to section 8 (a) (3) of the N. L. R. A. permits a similar agreement making membership in a union a condition of employment after 30 days' employment if, (1) the union is the employees' representative in an appropriate unit; and (2) the Board has certified that a majority of employees voted to authorize such an agreement in a Board-conducted election, provided, however, an employer may not discriminate because of nonmembership in the union, if he has grounds for believing that (A) membership was not available to the employee on the same terms applicable to other members, or (B) membership was denied or terminated for some reason other than failure to tender the uniformly required periodic dues or initiation fee.

*C. Check-off*

Section 6 (1) (f) of P. L. R. A. prohibits the collection from wages of dues, fees, assessments or other contribution to a union unless that check-off is authorized by a majority vote of employees in the appropriate bargaining unit in a secret ballot, and unless an authorization is signed by the employee affected.

Section 302 of the L. M. R. A. permits a check-off of dues provided the employee executes a written assignment which shall not be irrevocable for more than 1 year or beyond the termination of the applicable collective agreement, whichever occurs sooner. Other contributions to a union, deducted from wages, are prohibited and a violator is guilty of a misdemeanor.

*V. Unfair labor practices by unions*

Section 6 (2) and its subdivisions sets forth certain labor practices deemed to be unfair when committed by a union, a union officer, its agent, an employee, or employees acting in concert. Section 8 (b) of the N. L. R. A. is aimed at the acts of a union and its agent.

The following are unfair labor practices:

*A. Restraint and coercion*

To intimidate, restrain or coerce an employee to compel him to join or refrain from joining a union, or to influence his selection of a representative (sec. 6 (2) (a) P. L. R. A. as amended by the act of July 7, 1947, Act No. 558).

Section 8 (b) (1) (A) makes it an unfair labor practice for a union or its agent to restrain or coerce employees in the exercise of their rights under section 7, (set forth above).

*B. Sit-down strikes*

During a labor dispute, to engage in a sit-down strike, or to seize, hold, or damage the employer's property in order to compel the employer to yield to any demands (sec. 6 (2) (b) P. L. R. A.). There is no comparable provision in the N. L. R. A. An employer is free to discharge employees who engage in such activity.

*C. Restraint and coercion of employer*

To intimidate, restrain or coerce any employer by threats of force or violence to the employer's person or family to compel the employer to yield to any demands (sec. 6 (2) (c) of P. L. R. A. as amended by act of June 9, 1939, P. L. 293).

There is no comparable provision in the N. L. R. A. Such activity would justify a discharge.

*D. Picketing*

To picket or cause a place of employment to be picketed by a person who is not an employee (sec. 6 (2) (d) of P. L. R. A., as added by the act of June 30, 1947, Act No. 484).

There is no comparable provision in the N. L. R. A.

*E. Secondary boycotts*

To engage in a secondary boycott or by threats, force, coercion, or sabotage, to prevent the obtaining, use, or disposition of materials, equipment or services (sec. 6 (2) (d) of P. L. R. A., as added by act of July 7, 1947, Act No. 558).

For N. L. R. A. provision, see statement that follows the next paragraph.

#### *F. Jurisdictional dispute*

To call or conduct a strike or boycott or to picket a place of business on account of any jurisdictional controversy (sec. 6 (2) (e) of P. L. R. A., as added by act of July 7, 1947, Act No. 558).

Section 8 (b) (4) of N. L. R. A. makes it an unfair labor practice for a union or its agent to engage in or to induce or encourage the employees of—

\* \* \* any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is: (A) Forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person; (B) forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of section 9; (C) forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of section 9; (D) forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing such work: *Provided*, That nothing contained in this subsection (b) shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this act

### *VI. Representatives and elections*

#### *A. Majority rule*

Representatives selected by a majority of employees in an appropriate unit shall be the exclusive representative for collective bargaining respecting wages, hours, or other conditions of employment, providing that an individual or group of employees shall have the right to present grievances (sec. 7 (a) of P. L. R. A.).

Section 9 (a) of N. L. R. A. is identical except that individuals may, in addition to the right to present grievances, have them adjusted without the intervention of the representative provided the adjustment is no inconsistent with an agreement in force, and provided the representative is given the opportunity to be present.

#### *B. Appropriate unit*

The State Board shall decide whether the appropriate unit shall be the employer unit, craft unit, plant unit, or sub-division thereof, provided that where the majority of the employees in a craft signify a wish for a craft unit, that unit shall be designated as appropriate (sec. 7 (b) of P. L. R. A.)

The power by the National Board under section 9 (b) of N. L. R. A. to designate the unit is not limited with respect to crafts, as is the State board, but is limited in these ways: The extent of unionization shall not be controlling. The National Board may not include professionals with non-professionals unless a majority of the professionals vote for inclusion; and may not hold a craft unit inappropriate because a different unit was previously established, unless a majority in the craft vote against a separate unit; and may not include guards in a unit with other classes of employees; and may not certify a union as representative of guards if the union admits other classes to membership or is affiliated with an organization that accepts other classes of employees.

#### *C. Petition, investigation, certification*

Whenever a question is raised concerning the representation of employees, the State board may, and upon the request of a union, or an employer who has not committed an unfair labor practice, or a group of employees representing at least 30 percent of the employees in an appropriate unit, shall investigate the contro-



versy and certify the representative who has been selected. In the investigation, the board shall provide for a hearing (either in conjunction with an unfair labor practice hearing or otherwise) and may utilize any suitable method to ascertain the representative, except that if a party so requests, a secret ballot shall be taken. Any certification shall be binding for 1 year, or longer if the contract so provides, even though the unit may have changed its union membership. No petitions or changes involving questions of domination or assistance of unions may relieve the State board from expeditiously determining questions concerning representation (sec. 7 (c) and 9 (e) of P. L. R. A. as amended by act of June 9, 1939, Public Law 293).

Under section 9 (e) of N. L. R. A., the National Board's processes may be invoked by (1) an employee, a group of them, or an individual or union acting on their behalf, alleging that a substantial number of employees wish to be represented, or asserting that a certified or recognized union is no longer a representative; and (2) by an employer claiming that one or more individuals or unions have presented a claim for recognition as the representative. The Board investigates and conducts a hearing to determine whether a question concerning representation exists and if so, proceeds for an election by secret ballot. A hearing may be waived by consent. In determining whether a question concerning representation exists, the National Board must apply the same regulations and rules irrespective of the identity of the petitioners and of the kind of relief sought. Only one election may be held in a 12-month period. Employees on strike who are not entitled to reinstatement are not entitled to vote. In any election, if no choice receives a majority, a run-off shall be conducted between the two choices receiving the highest number of votes. The National Board has generally held representation proceedings in abeyance when unfair labor practices are unremedied regardless of their nature. The National Board may decertify a union as well as certify one.

#### *D. Record of investigation*

The record of the State board's investigation and the certification shall become part of the transcript of an unfair labor practice proceeding when a petition is made to enforce a board order that is based on facts certified following the investigation and thereupon the court decree shall be made upon the pleadings, testimony and proceedings set forth in the transcript (sec. 7 (d) of P. L. R. A. as amended June 9, 1939, Public Law 293, and act of May 26, 1943, Public Law 651).

This is identical with the requirement of section 9 (d) of N. L. R. A.

### *VII. Prevention of unfair labor practices*

#### *A. Jurisdiction*

The State board is exclusively empowered to prevent unfair labor practices, and this power is unaffected by any other means of adjustment established by agreement, law or otherwise (sec. 8 (a) of P. L. R. A.).

This is identical with section 10 (a) of N. L. R. A. Under the latter, however, the National Board may agree with a State or Territorial agency to cede jurisdiction over cases (not involving mining, manufacturing, communications and transportation except where they are predominantly local) when the State or Territorial statutes are consistent with the N. L. R. A.

#### *B. Proceedings after filing of a charge*

Whenever it is charged that a person is or has been engaged in an unfair labor practice, the board, or a member or an agent, is authorized to issue and have served a complaint stating the charges and containing a notice of a hearing. The person so served may file an answer, and appear in person or otherwise to testify. In the discretion of the board, an interested person may be permitted to intervene and testify. In this proceeding, the rules of courts of law or equity shall be followed but shall not be controlling. No charge may be entertained which relates to conduct occurring more than 6 weeks prior to the filing of the charge (sec. 8 (b) of P. L. R. A. as amended by act of June 9, 1939, Public Law 293).

Proceedings under section 10 (b) of N. L. R. A. are similar except that no complaint may be issued where a charge was not filed and served within 6 months after the acts complained of, and except that the investigation of charges, issuance of complaints, and their prosecution are conducted by the general counsel by virtue of section 3 (d) of N. L. R. A.

*C. Remedies*

The State board has the same power to issue cease and desist orders, orders for reinstatement of employees with or without back pay, under section 8 (c) of P. L. R. A. as amended by act of June 9, 1939, Public Law 293, as has the National Board under section 10 (c) of N. L. R. A. with these exceptions: (1) The State board may rest its findings upon all the testimony taken; the National Board must rely on a preponderance of testimony; (2) The State board may order reinstatement only if it finds a violation of section 6 (1) (c); the National Board is not so restricted to a finding respecting the comparable provision of 8 (a) (3); (3) The State board may not award back pay from a period more than 6 weeks prior to the filing of the complaint; the National Board is not so limited.

*D. Modification and compliance*

Until a transcript of the record in a case is filed in a court, the State board may modify or set aside its finding or order, in whole or in part, and any agreement made between an employer and a bona fide union shall be entitled to full force and effect unless the board finds that the agreement involves the commission of an unfair labor practice within the meaning of section 6 (1) (c), the prohibition of discriminations to encourage or discourage membership (sec. 8 (d) of P. L. R. A.).

Section 10 (d) of N. L. R. A. is similar except that the National Board is not bound by any agreement respecting compliance.

*E. Retroactive effect*

Proceedings are to be conducted with dispatch. No State board findings shall be made on evidence of acts which occurred prior to the act's enactment (sec. 8 (e) of P. L. R. A.). Under section 102, no past conduct which did not constitute a violation of the Wagner Act may be deemed an unfair labor practice under N. L. R. A.

*F. Prosecution of complaints*

All cases in which complaints are issued shall be prosecuted before the board, or its examiner, or both, by the representative of the union or employee who filed the charge, and a deputy attorney general may be assigned by the department of the attorney-general. An examiner may have no other position with the State or Federal Government (sec. 8 (f) of P. L. R. A. as amended by the act of June 9, 1939, Public Law 293).

As previously stated, the general counsel prosecutes complaints on behalf of the charging parties.

*G. Judicial review—Enforcement*

The provisions for enforcement and review of State board orders under section 9 of P. L. R. A. as amended by act of June 9, 1939, Public Law 293, act of May 26, 1943, Public Law 651, and act of May 18, 1945, Public Law 656, are similar to the provisions of section 10 (a) to (i) of N. L. R. A., except that the P. L. R. A. permits an appeal from an order certifying a collective bargaining agent, whereas the N. L. R. A. does not; enforcement and review from State board orders are sought in the court of common pleas whereas National Board orders are reviewable by the circuit court of appeals.

*VIII. Investigatory powers*

The State board's investigatory powers under section 10 of P. L. R. A. as amended by act of June 9, 1939, Public Law 293, are almost identical with the powers vested in the National Board by section 11 of N. L. R. A., except that enforcement of State board subpoenas is sought in the court of common pleas.

*IX. Forfeiture of rights*

Section 10.1 of P. L. R. A. as amended by act of June 9, 1939, Public Law 293, provides that the commission of an unfair labor practice by a charging party shall constitute a complete defense to the complaint brought at his instance.

There is no comparable provision in the N. L. R. A.

*X. Penalties*

Section 11 of P. L. R. A. provides for the same penalty as does section 12 of N. L. R. A. for impeding the respective Boards, their members or agents.

*XI. Repealer*

All laws inconsistent with P. L. R. A. are repealed (sec. 12 of P. L. R. A.). The N. L. R. A. has no comparable provision.

*XII. Right to strike*

Section 13 of P. L. R. A. provides that nothing in the act shall be construed so as to diminish the right of employees to strike. (Title 43, secs. 199, 200, Purdon's Statutes Annotated, expressly recognizes a strike as a lawful activity, except as modified by the provisions set forth below.)

Section 13 of N. L. R. A. provides for the same safeguard except as diminished by specific provisions in the act.

*XIII. Injunction*

Title 43, section 206, Purdon's Statutes Annotated, which is not a part of P. L. R. A., prohibits a temporary or permanent injunction on the application of an employer except in a case, (a) involving a labor dispute which is in disregard or breach of, or which tends to procure the disregard or breach of a valid, subsisting contract between an employer and a union designated by employees, where the complainant is himself not guilty of an unfair labor practice or a violation of the agreement; (b) where a majority of the employees are not union members, or where two or more unions are competing for membership, and a union engages in conduct calculated to compel the employer to require his employees to prefer or join a union; (c) where any person, employee, union, agent, representative or officer engages in conduct calculated to compel an employer to violate the P. L. R. A. or the N. L. R. A.; (d) where, in the course of a labor dispute, an employee, union or its members or agent, etc., seize, hold, damage the plant, equipment or other of the employer's property to compel the employer to accede to any demands.

No comparable provision is contained in any Federal statute.

## LABOR DISPUTES AFFECTING PUBLIC UTILITIES

*I. Mediation and compulsory arbitration*

Act 485, acts 1947, provides for labor disputes affecting public utilities furnishing gas, water and steam heat services to the public. The provisions for making mediation services available and for holding a "last offer" election are similar to sections 206 to 210 of L. M. R. A. If the dispute is not resolved and the employer's last offer is rejected, then the dispute must be arbitrated. Strikes and lock-outs are prohibited.

Under L. M. R. A., strikes and lock-outs that may imperil national health or safety may be postponed for a period but may not be prohibited after mediation fails and the employer's last offer is rejected.

Pennsylvania Labor Relations Act of June 1, 1937 (Act No. 294) Pennsylvania Law 1168, regulates various aspects of labor relations. In each case where amendments have been enacted, a note so indicates with a citation of the act number and its date of enactment. Other laws affecting the same subject have been included and similarly cited.

## RHODE ISLAND

Rhode Island State Labor Relations Act, chapter 1066, laws of 1941, approved May 7, 1941, and effective July 1, 1941, as amended by chapter 1247. Laws of 1942, provides for the regulation of various aspects of labor relations. The amendments thereto have been noted and are cited where applicable by reference to chapter.

*I. Findings and policy*

The findings and policy expressed in section 1 of the State act are similar though not identical with those stated in the Wagner Act. They are, of course, made applicable to intrastate relations and interests.

*II. Definitions*

The definitions in section 2 of the State act are similar to those in N. L. R. A. with some noteworthy exceptions. The term "employer" in the State act includes a person acting in the interest of an employer whereas the term in N. L. R. A. does not. The State act contains a broad definition of "company union" which

applies the same tests of dominated and assisted organizations as the NLRB has applied in its decisions.

### *III. The State board*

In section 3 the State act creates a board of three men to effectuate the provisions of the State act, similar in form to the National Board under the N. L. R. A. Subdivision 4 of section 3 of the State act, providing for compensation of the State board members was amended by chapter 2014, Laws of 1948, effective July 1, 1948.

### *IV. Rights of employees*

The first part of section 4 of the State act provides that employees are given the right to self-organization, to form, join, or assist unions, to bargain collectively through their chosen representatives and to engage in concerted activities for collective bargaining.

The foregoing is modeled after the provisions of section 7 of the Wagner Act. Section 7 of N. L. R. A. provides that in addition to the foregoing, the employees have the right to refrain from such activity.

Section 4 of the State act also provides that nothing in the act shall be construed so as to prohibit employees and employers from conferring with each other provided the employer makes no attempt to restrain or coerce employees in the exercise of their rights under the section.

Under the N. L. R. A., a proviso to section 8 (a) (2) (which deals with the unfair-labor practice by an employer by dominating or assisting a union) provides that an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of pay. Section 8 (a) (1) of the N. L. R. A. prohibits the employer from restraining or coercing his employees from the exercise of their rights under section 7 which are described above.

### *V. Unfair-labor practices by employer*

#### *A. Espionage*

To spy upon the activities of employees or their representative in the exercise of their rights under section 4. (Sec. 5, subd. 1.)

The N. L. R. A. has no specific prohibition against surveillance. Such conduct has been held to be violative of section 8 (a) (1), the provision prohibiting restraint and coercion of employees in the exercise of their rights under section 7.

#### *B. Blacklisting*

(1) To prepare, maintain, or circulate a blacklist to prevent employees from obtaining or keeping employment because of their exercise of their rights under section 4. (Sec. 5, subd. 2.)

(2) To distribute or circulate any blacklist of individuals exercising any right under this act or of members of a union, or to inform any person of an individual's exercise of his right or membership in any union for the purpose of preventing the individual listed or named from obtaining or retaining employment. (Sec. 5, subd. 9.)

The N. L. R. A. does not have a similar specific prohibition, but such conduct would constitute a violation of 8 (a) (1), the provision prohibiting restraint and coercion, and in most circumstances, of 8 (a) (3), the provision prohibiting the encouragement or discouragement of union membership by discrimination in regard to hire or tenure of employment or any condition of employment.

#### *C. Union domination*

To dominate, interfere, or contribute financial or other support to a union. (Sec. 5, subd. 3.) The section also lists specific acts which would constitute interference, domination, and support but does not purport to limit the coverage of the section to such conduct. It is specifically provided in a proviso that an employer may permit employees to confer with him during working hours without loss of time or pay.

Sec. 8 (a) (2) of N. L. R. A. has a similar prohibition though worded differently. In their legal effect, the sections are identical.

#### *D. Yellow-dog contracts*

To require an employee or an applicant to join a company union or to refrain from forming, joining, or assisting a union of his own choice. (Sec. 5, subd. 5.)

The N. L. R. A. has no identical provision, but such conduct would constitute a violation of sections 8 (a) (1) and (3).

*E. Discrimination—Closed shop*

To encourage membership in a company union or to discourage membership in any union, by discrimination in regard to hire or tenure of employment or any term or condition of employment, provided that an employer may make an agreement with a union requiring membership in the union as a condition of employment if the union is the representative of a majority of the employees, or has been so designated by the majority of employees voting in an election of representatives. (Sec. 5, subd. 5.)

Section 8 (a) (3) of N. L. R. A. provides that an employer may not by similar discrimination encourage or discourage membership in any union, provided that an employer may make an agreement with a union requiring membership therein as a condition of employment after 30 days' employment if (1) the union is the employees' representative in an appropriate unit; and (2) the National Board has certified that a majority of the employees voted to authorize such an agreement in a Board-conducted election; provided, however, an employer may not discriminate because of nonmembership in the union if he has grounds for believing that (A) membership was not available to the employee on the same terms applicable to other members, or (B) membership was denied or terminated for some reason other than the failure to tender the uniformly required periodic dues or initiation fee.

*F. Refusal to bargain*

To refuse to bargain with the representative of the employees except where another union, other than a company union, made a claim to representative status. (Sec. 5, subd. 6.)

Section 8 (a) (5) of N. L. R. A. as interpreted by the National Board is similar in its effect.

*G. Discussion of grievances*

To refuse to discuss grievances with representatives of employees, subject to the provisions of section 6. (Sec. 5, subd. 7.)

Under N. L. R. A. a refusal to discuss grievances with the employees' representative has been deemed to constitute a refusal to bargain. A further discussion of grievances is found under VI, A, below.

*H. Discrimination—Giving testimony*

To discriminate against an employee because he has signed or filed an affidavit, petition, or complaint, or given any information or testimony under the State act. (Sec. 5, subd. 8.)

Section 8 (a) (4) of N. L. R. A. prohibits discrimination against an employee because he has filed a charge or given testimony.

*I. Restraint and coercion*

To do any acts, other than already enumerated, which interfere with, restrain, or coerce employees in the exercise of their rights in section 4.

Section 8 (a) (1) of N. L. R. A. has a similar prohibition against restraint and coercion of employees in the exercise of their rights under section 7.

*VI. Representatives and Elections**A. Majority rule*

Representatives selected by a majority of employees in an appropriate unit shall be the exclusive representative for collective bargaining respecting wages, hours, or other conditions of employment, provided that employees shall have the right to present grievances to their employer, directly or through representatives. (Sec. 6, subd. 1.)

Section 9 (a) of N. L. R. A. is identical except that employees may not present grievances through any but the exclusive representative, but may present grievances individually and have them adjusted without intervention of any representative, provided the adjustment is not inconsistent with the agreement in force and provided the exclusive representative is given the opportunity to be present.

*B. Appropriate unit*

The State board shall decide whether the appropriate unit shall be the employer unit, craft unit, plant unit, or any other unit, provided that where a majority of the employees in a craft signify a desire for a craft unit, the State board shall designate that craft unit as appropriate.

The power by the National Board under section 9 (b) of N. L. R. A. to designate the unit is not limited with respect to crafts, as is the State board, but is limited in these ways: The extent of unionization shall not be controlling. The National Board may not include professionals with nonprofessionals unless a majority of the professionals vote for inclusion; and may not hold a craft unit inappropriate because a different unit was previously established, unless a majority in the craft vote against a separate unit; and may not include guards in a unit with other classes of employees; and may not certify a union as representative of guards if the union admits other classes to membership or is affiliated with an organization that accepts other classes of employees.

### *C. Petition, investigation, certification*

Whenever a question is raised concerning the representation of employees, by an employee or his representative, the State board shall investigate the question and certify the name of the representative designated. When an employer raises the question, the investigation is made after a public hearing. A hearing in the investigation may be joined with a proceeding for the prevention of an unfair labor practice. An election by secret ballot, either before or after the hearing, or any other method may be employed to ascertain the representative. The State board shall not have authority to investigate a question between individuals or groups within the same union or between unions affiliated with the same parent. (Sec. 6, subd. 3.)

Under Sec. 9 (c) of N. L. R. A., the National Board's processes may be invoked by (1) an employee, a group of them, or an individual or union acting on their behalf, alleging that a substantial number of employees wish to be represented, or asserting that a certified or recognized union is no longer a representative; and (2) by an employer claiming that one or more individuals or unions have presented a claim for recognition as the representative. The Board investigates and conducts a hearing to determine whether a question concerning representation exists and if so, proceeds for an election by secret ballot. A hearing may be waived by consent. In determining whether a question concerning representation exists, the National Board must apply the same regulations and rules irrespective of the identity of the petitioners and of the kind of relief sought. The National Board may decertify a union as well as certify one.

### *D. Elections*

The State board has power to determine who may participate in the election and to establish rules governing the election. No election may be directed solely at the employer's request. No individuals employed only for the duration of a strike or lockout may vote. No election shall be conducted under the employer's supervision or except as the State board may require on the employer's property, during working hours or with the employer's participation or assistance. (Sec. 6, subd. 4.)

Sec. 9 of N. L. R. A., and the interpretations by the National Board provide similar regulations with respect to elections. Sec. 9 (c) (3) of N. L. R. A. provides further that only one election may be held in a 12-month period, and employees on strike who are not entitled to reinstatement are ineligible to vote.

### *E. Run-offs—Duration of certification*

At an election, if there are three or more nominees for representative, and none receives a majority, a run-off is held between the two nominees receiving the highest number of votes. A certification as a result of an election is effective for 1 year from the date of the election. (Sec. 6, subd. 5.)

Sec. 9 (c) (3) of N. L. R. A. provides for a similar run-off except that the ballot lists the two highest choices, rather than the two highest nominees. There is no comparable provision under the N. L. R. A. which limits the effective period of a certification.

## *VII. Prevention of Unfair Labor Practices*

### *A. Jurisdiction*

The State board is empowered to prevent unfair labor practices, unaffected by other means of adjustment or mediation established by law. (Sec. 7, subd. 1.)

The power of the National Board under section 10 (a) is unaffected by any other means of adjustment established by agreement, law, or otherwise.

*B. Charges and complaints*

Whenever a charge is made that an unfair labor practice has been committed, the State board is authorized to issue and have served a complaint stating the charge and containing a notice of hearing. The person served may answer and appear in person or otherwise to testify. In such proceeding the technical rules of evidence shall not bind the officer presiding. (Sec. 7, subd. 2.) (Ch. 1247, Laws of 1942 amended a portion of this section dealing with the time within which the respondent must answer.)

Proceedings under sec. 10 (b) of N. L. R. A. are similar except that no complaint may be issued where a charge was not filed and served within 6 months after the act complained of, and except that the investigation of charges, the issuance of complaints, and their prosecution are conducted by the General Counsel by virtue of sec. 3 (d) of N. L. R. A.

*C. Remedies*

The State board has the same power to issue cease and desist orders, including orders for reinstatement with or without pay, under sec. 7, subd. 3, as has the National Board under sec. 10 (c) of N. L. R. A., with this exception. The State board may rest its findings on "all the testimony taken" whereas the National Board must rest its finding on "the preponderance of testimony." The National Board is required to reduce all testimony taken at hearings to writing, and to file it. Sec. 7, subd. 3 of the State Act had a similar requirement that was amended by chap. 1247, Laws of 1942 so that the testimony need be reduced to writing now only when an appeal is taken or when a transcript is required for proceedings in the Superior Court.

*D. Modification of orders*

Until a transcript of its record is filed in a court, the State board may modify or set aside, in whole or in part, any finding or order made by it. The State board may not require the discontinuance of any strike or other lawful activity as a condition of taking action. (Sec. 7, subdivisions 4 and 5.)

Section 10 (d) of N. L. R. A. is similar except that the Board is not specifically prohibited from making its order conditional on the cessation of some lawful activity. The National Board has never done so, however.

*E. Judicial review—enforcement*

The proceedings for enforcement and review of State board orders under section 8 of the State act are similar to the provisions in section 10 of N. L. R. A., except that by amendment of chapter 1247, Laws of 1942, to section 8, subdivision 4, a review is permitted of a final decision as well as a final order, whereas under section 10 (f) of N. L. R. A., a review of a final order only is permitted; and except that under section 8, subdivision 2, the State board's findings are conclusive if supported by evidence, whereas the National Board's findings are required to be supported by substantial evidence on the record considered as a whole.

*VIII. Investigatory powers*

The State board's investigatory powers under section 9 of the State act are almost identical with the powers vested in the National Board under section 11 of N. L. R. A.

*IX. Penalties*

Section 10 of the State act provides a penalty for impeding the work of the State board which is identical with that provided by section 12 of N. L. R. A.

*X. Repealer*

All laws inconsistent with the State act are repealed. (Sec. 13.)

The N. L. R. A. does not contain a comparable provision.

*XI. Right to strike*

Section 14 of the State act provides that nothing in the act shall be construed so as to diminish the right of employees to strike or engage in other lawful activities.

Section 13 of N. L. R. A. provides for the same safeguard except as the right may be diminished by specific provisions in the act.

## SOUTH CAROLINA

1. South Carolina has no separate labor relations act similar to the N. L. R. A.  
 2. *Section 3237<sup>1</sup> (right to organize and bargain)*

(a) It is a misdemeanor to discriminate against an employee because of labor-union membership.

(b) Section 7, N. L. R. A., guarantees to employees the rights of self-organization and of engaging in concerted activities for their mutual aid or protection; also, the right to refrain from such activity, except as such right may be affected by a valid union-security agreement.

3. *Section 6628 (picketing and boycotting)*

(a) An agreement to refuse to buy, or sell to, a person because such person is not a member of an association, or to threaten to boycott such person is a conspiracy in restraint of trade.

(b) Section 8 (b) (4), N. L. R. A., provides that it is an unfair labor practice to engage in or encourage the employees of any employer to engage in a strike or refusal to handle or work on goods, if the object thereof is a boycott.

4. *Section 1380 (interference with employment)*

(a) It is unlawful to band together with intent to injure the person or property of a person because of his political opinion or to obstruct his exercise of rights secured to him by State or Federal Constitution or laws.

(b) N. L. R. A. contains no like provision, however, "mass picketing" employees may be refused reinstatement on the basis of misconduct.

5. *South Carolina Constitution, article 8, section 9 (strikebreaking)*

(a) No armed police force, or representatives of a detective agency, will be brought into the State to suppress domestic violence.

(b) N. L. R. A. contains no like provision; however, an employer engaging in such an activity would violate section 8 (a) of the act.

6. *Section 1421 (political activities)*

(a) It is unlawful for an employer to discharge an employee because of his political opinion or activities.

(b) NLRA contains no like provision.

	<i>Reference</i>	<i>Date</i>
2. Sec. 3237 (right to organize and bargain)-----		1909
3. Sec. 6628 (picketing and boycotting)-----		1902
4. Sec. 1380 (interference with employment)-----		1871
5. South Carolina Constitution art. 8, sec. 9 (strikebreaking)-----		1895
6. Sec. 1421 (political activities)-----		1871

## SOUTH DAKOTA

References are to Code of 1939 unless otherwise indicated

South Dakota has no separate labor relations act similar to Taft-Hartley.

1. *Collective bargaining agreements*

(a) Such agreements are enforceable at law or equity and any breach is subject to remedies as in case of other contracts, including injunctive relief (secs. 2 and 3, ch. 94, Laws of 1947).

Bond: In actions involving a labor dispute or contract where injunction is sought, bond sufficient to cover court costs required.

(b) T-H. No similar provision. (See title III, sec. 301.)

Unions are made suable in the Federal courts as entities and they are held bound by the acts of their agents. The term "agents" is given a broad meaning. A money judgment against a union is enforceable only against the organization's assets, not against those of individuals.

2. *Closed shop prohibited*

(a) Unlawful to deny employment on basis of membership or nonmembership in a labor organization. Violation punishable by fine and/or imprisonment (ch. 80, Laws of 1945).

<sup>1</sup> References are to the Code of 1942, unless otherwise indicated.



(b) T-H. Similar provisions.

Closed shops and union hiring halls outlawed and lesser forms of union security agreements permitted on basis of election (secs. 8 (a) (3) and 9 (e)).

See also section 8 (a) (3) narrowing circumstances under which it is lawful for an employer to discriminate against nonunion workers.

### 3. *Union security provisions*

(a) Due process clause. Right to work not denied or abridged by membership or nonmembership in union.

Contract to contrary a violation.

Request for such contract a violation.

Request to join union under threat a violation.

Breach subject to penalties. (Constitution, sec. 2, art. VI, Statute, ch. 2, Laws of 1947.)

(b) T-H. See above (2 (b)).

It is an unfair labor practice to enforce or attempt to enforce a closed-shop contract (sec. 8 (a) (3)).

### 4. *Boycotting and picketing on agricultural premises*

(a) Makes unlawful picketing home of employee on agricultural premises and boycotting farm products not produced by union labor. Breach subject to penalties. (Ch. 86, Laws of 1943.)

(b) T-H. No comparable provision.

Cf. 8 (b) (4) relating to boycotts for four illegal purposes. Also section 303 (a) and (b) strikes and boycotts in these categories are made unlawful and anyone injured as a result may sue in Federal court for damages against union.

### 5. *Restrictions on picketing*

(a) Unlawful to picket when no labor dispute exists; unlawful to interfere with right to work by use of force, threat, etc.; unlawful to picket by force or violence or intimidation; seizure or destruction of property in connection with labor dispute or to compel joining a union prevented; mass picketing illegal and only employees may picket (secs. 1-6, ch. 93, Laws of 1947).

(b) T-H. Cf. proviso in section 8 (b) (4); right to recognize a picket line around another employer's plant reserved where strike was ratified by authorized bargaining agent.

### 6. *Unlawful assemblies*

(a) Definition of riot, rout and unlawful assembly and penalties therefor (Code of 1939, secs. 13.1402, 13.1404, 13.1405).

(b) T-H. No comparable provision. Compare picketing (above).

### 7. *Penalties for misdemeanors*

(a) Conspiracy, section 13.0301; mines seizure, section 13.1826; forcible entry, section 13.1412, 1413; armed guards, sections 55.0106 and 55.9932.

(b) T-H. No comparable provision.

### 8. *Regulation of labor unions*

#### *Financial statements:*

(a) Unions must file annual statements of income and expenditures showing balance and officers' salaries (sec. 1, ch. 86, Laws of 1943).

(b) T-H. See section 9 (f) and (g).

Protection of act denied to union unless it files reports showing, among other things, financial data, which must be kept up to date and distributed to all members.

#### *Right to sue or be sued:*

(a) Unions may sue or be sued as entities and assets are subject to process. Judgments enforceable only against union's assets (sec. 1, ch. 94, Laws of 1947).

(b) T-H. See reference to title III, section 301 above.

#### *Penalties:*

Violation of any of "these provisions" guilty of misdemeanor (fine and/or imprisonment).

### 9. *Unfair employment practices*

#### *Notice of strike to prospective employees:*

(a) Employer or representative of employer or employees may file statement with regard to strike at public employment office for posting. Reply may be posted. (S. D. Code, sec. 17.0706.)

(b) T-H. No comparable provision.

*Interference with political activities:*

(a) Employers who distribute political matter to employees or attempt to influence votes by threats are guilty of misdemeanor. If a corporation, charter is forfeited. (S. D. Code, sec. 13.0914.)

(b) T-H. No comparable provision.

Cf. Title III, section 304, outlawing expenditures and contributions of unions in connection with a national election or primary.

*Time off to vote:*

(a) Provision for absence from work for 2 hours on election day without penalty. (S. D. Code, secs. 16.0202 and 16.1211 as amended by ch. 87, Laws of 1947.)

(b) T-H. No comparable provision.

*Coercion:*

(a) Person using "unlawful" means to coerce an employer or employee in his business or employment guilty of a misdemeanor. (S. D. Code, secs. 13-1824, 13.1825.)

(b) T-H. No similar provision.

Cf. Section 8 (a) and (b) providing for unfair labor practices of employer and union; and provisions for enforcement thereof under section 10.

NOTE.—Section 8 (b) (1) prohibiting "high-pressuring" employees and employers.

6. All citations to revised Code of 1919 (Laws of 1919).

7. First citation to Code of 1939 (revised), remaining citations to Revised Code of 1919 (Laws of 1919).

9. Notice to strike, State Statute of 1936; Interference, Code of 1939 (revised); Coercion, Revised Code of 1919 (Laws of 1919).

## TENNESSEE

Reference to Code of Tennessee, 1932, unless otherwise indicated  
There is no State labor relations act in Tennessee.

### *I. Collective Bargaining*

#### *1. Closed shops and union security limitations*

##### *(a) Closed shop prohibited:*

1. Section 1, chapter 36, Public Acts, 1947.

2. Unlawful to deny or attempt to deny employment because of membership or nonmembership in a labor organization.

3. Taft-Hartley. Closed shops and union hiring halls outlawed and lesser forms of union security agreements permitted on basis of election. Section 8 (a) (3), 9 (e); section 8 (b) (2).

##### *(b) "Yellow dog" contracts prohibited:*

1. Section 2, chapter 36, Public Acts, 1947.

2. Unlawful to contract for exclusion from employment because of membership or nonmembership in a labor organization.

3. Taft-Hartley. No comparable provision. Prohibited under sections 8 (a) (1) and (3), 8 (b) (2).

##### *(c) Union dues, etc.:*

1. Section 3, chapter 36, Public Acts, 1947.

2. Unlawful to exclude from employment because of payment or failing to pay dues, etc., to a labor organization.

3. Taft-Hartley. No comparable provision. Cf. section 8 (a) (1) and (3).

##### *(d) Exceptions:*

1. Section 4, chapter 36, Public Acts, 1947.

2. Provisions of act do not apply to any lawful contract in force on effective date of act, but to all subsequent contracts or renewals.

3. Taft-Hartley. Cf. sections 102 and 103, protecting closed and union shop contracts in operation when act was passed until expiration. Union security contracts signed within 60 days of passage of act good for term.

## (e) Penalties:

1. Section 5, chapter 36, Public Acts, 1947.
2. Party violating any of provisions of act guilty of misdemeanor and subject to fine and/or imprisonment.
3. Taft-Hartley. Violation subject of unfair labor practice charge. Sections 8 (a) (3) and 8 (b) (2).

*II. Strikes, picketing, boycotts, etc.**1. Strikes*

- (a) Section 11366.1.
- (b) Termination of employment.

Employees ceasing to work voluntarily or because of discharge, must leave employer's premises within a reasonable time; (12 hours). Failure to do so is a misdemeanor.

(c) Taft-Hartley. No comparable provision. Cf. section 8 (d) providing for 60-day negotiation and cooling-off period with notices prior to work stoppage over terms of renewal contract. Strikers lose rights as employees.

*2. Sabotage and other forms of destruction*

- (a) Section 11035.
- (b) Intimidating citizens.

Unlawful to disturb peace or destroy property, or intimidate citizens, or to cause by threats a citizen to do any unlawful thing.

(c) Taft-Hartley. No comparable provision. Cf. 8 (b) (4) relating to boycotting for stated purposes, and section 303 (a) and (b). Strikes and boycotts in stated categories unlawful and anyone injured as a result may sue in Federal court for damages against union.

*III. Unfair employment practices**1. Notice of strike*

- (a) Sections 6702 and 11363.
- (b) Employment agencies to notify employees of a labor dispute where employment is to be. Advertisement must so state.
- (c) Taft-Hartley. No comparable provision.

*2. Strikebreaking*

- (a) Section 11365.
- (b) Hiring of armed guards under circumstances set forth in section 11363 above.
- (c) Taft-Hartley. No comparable provision.

*3. Interference with political activities*

- (a) Offering employment to influence vote:
  - i. Sections 11332 (b), 11334.
  - ii. Offering employment to influence voter subject to fine and/or imprisonment. Corporate violator forfeits charter.
  - iii. Taft-Hartley. No comparable provision.
- (b) Use of coercion to influence vote:
  - i. Sections 11337, 11348.
  - ii. Misdemeanor to prevent elector from voting or to use intimidation to influence voter. Misdemeanor for employer to exhibit notice of effect on working conditions of possible outcome of election.
  - iii. Taft-Hartley. No comparable provision. Cf. title III, section 304.
- (c) Influencing vote of employees:
  - i. Section 11347.
  - ii. Fine and/or imprisonment for coercing or directing vote of employee. Unlawful to threaten to discharge or discharge any employee for manner of voting.
  - iii. Taft-Hartley. No comparable provision. Cf. title III, section 304.

*4. Other unfair employment practices*

- (a) Enticing away employees:
  - i. Section 8559.
  - ii. Unlawful to entice away employees before expiration of time of employment—except for good cause.
  - iii. Taft-Hartley. No comparable provision.

II. 1 (a) Approved May 13, 1937; 2 (a) Laws of 1907.

III. 1 (a) First citation to Laws of 1923, second citation to Laws of 1901; 2 (a) Laws of 1901; 3 (a) (i) Both citations to Laws of 1907; 3 (b) (i) Both citations to Laws of 1897; 3 (c) (i) Laws of 1927; 4 (a) (i) Laws of 1875.

### TEXAS

The State of Texas has no separate labor relations act similar to the National Labor Relations Act. There are, however, several State statutes in the labor relations field. A brief discussion thereof with cross references to the Labor-Management Relations Act of 1947 for purposes of comparison, will be found below.

#### CHAPTER 74, LAWS OF 1947

*Bargaining.*—Section 1 of the State statute provides that the right of a person to work and bargain freely with his employer, individually or collectively for the terms and conditions of his employment shall not be denied or infringed. Under the Federal statute, a representative of the majority of the employees in an appropriate unit is the exclusive representative of all the employees in the unit (sec. 9 (a)).

*Compulsory membership in union.*—Section 2 of the State statute provides that no person shall be denied employment on account of membership or nonmembership in a labor union. Section 3 provides that any contract which requires as a condition of employment, membership or nonmembership in a union, shall be null and void. Under the Federal statute, an agreement which provides that an employee shall not be a member of a union would be violative of section 8 (a) (1) and (3). However, section 8 (a) (1) and (3) of the Federal statute does permit union-shop agreements between a union and an employer under specified conditions. Discharge of an employee for nonmembership in a union which has such an agreement with an employer constitutes an unfair labor practice unless nonmembership results from a failure by the employee to tender periodic dues or initiation fees uniformly required of all members.

#### CHAPTER 387, LAWS OF 1947

*Secondary boycotts.*—This State statute provides that it shall be unlawful for any person or persons or association of persons or any labor union or members or agents thereof, acting singly or in concert with others, to establish, call, participate in, aid or abet a secondary strike or secondary picketing, or secondary boycott. Penalties provided in the statute are a fine of \$500, 6 months' imprisonment, or both. Violations may be enjoined and the aggrieved party may sue for damages. Comparable prohibitions against labor unions or their agents, will be found in the Federal statute in sections 8 (b) (4) (A), (B) and (C) (activities of this nature are made unfair labor practices) and in section 303 where such activities are made unlawful subjecting the labor union and its agents to actions for damages by the party aggrieved. Section 10 (1) of the Federal statute provides for the issuance of injunctions in such situations.

#### CHAPTER 100, LAWS OF 1941

*Interference with work.*—This statute provides that it shall be unlawful for any person by use of force or violence, or the threat of force or violence, to prevent or attempt to prevent any employee from engaging in any lawful vocation within the State. Under the Federal statute, such conduct by labor unions or their agents is violative of section 8 (b) (1) (A). Individual employees not falling in the category of agents who engage in such activity are subject to discharge without right of reinstatement.

#### CHAPTER 138, LAWS OF 1947

*Mass picketing.*—Under this State statute, mass picketing is declared unlawful. The statute contains a definition of mass picketing which provides that it shall include situations where there are more than two pickets at one time within 50 feet of a plant entrance, or within 50 feet of any other picket, or in which pickets constitute an obstacle to the free ingress and egress from the plant. It is also made unlawful and subject to fine and imprisonment, or both, for any person act-

ing singly or in concert with others to (1) use threatening, insulting, or obscene language in an effort to interfere with another in the exercise of his right to work, (2) engage in picketing activities accompanied by slander, libel, or the public display of oral or written misrepresentations, (3) engage in picketing, the purpose of which is to secure the violation of a valid contract between an employer and a union certified by the NLRB, (4) to engage in picketing in violation of a court injunction. Under the Federal statute, the term "mass picketing" is not used or defined. Certain types of picketing activities which have been held by the Board to constitute coercion and restraint are violative of section 8 (b) when indulged in by a labor union or its agents. As a general rule, however, the expressing of views, arguments, or opinion does not constitute an unfair labor practice if such expression contains no threat of reprisal or force or promise of benefit.

## CHAPTER 84, LAWS OF 1947

*Public utilities.*—In general this statute prohibits and makes unlawful picketing of a public-utility employer with intent to disrupt the service of such utility, or where the picketing has the effect of disrupting the service. It is also declared unlawful for any person to intimidate, threaten, or harass an employee of a public utility with the intent of disrupting the service, or where such conduct has the effect of disrupting the service of the public utility. Sabotage of public-utility equipment is specifically declared unlawful. Violators are subject to heavy fine and other penalties and courts are authorized to issue injunctions. Under the Federal statute, much of the conduct described would be violative of the law. Aside from title II of the Federal statute where specific provisions are made to handle so-called national emergency situations, the Federal statute does not treat disputes in public-utility situations different from other disputes.

## CHAPTER 132, LAWS OF 1947

*Union responsibility for damages.*—This statute subjects labor unions to suits for damages where picketing or a strike is held to constitute a breach of contract by a court of competent jurisdiction. Under the Federal statute, labor unions are subject to similar suits by the provisions of section 301.

## SECTION 9, REVISED CIVIL STATUTES 5154A

*Union books of accounts.*—Under this State statute, unions are required to keep accurate books of account which shall be open to inspection by members and law-enforcement officers. Under the Federal statute, extensive annual reports are required to be filed by labor unions with the Secretary of Labor (sec. 9 (f) and (g)), and an annual financial report is required to be furnished to each member (sec. 9 (f) and (g)). Labor unions who do not comply with these sections are penalized by loss of statutory benefits.

## SECTION 3, REVISED CIVIL STATUTES 5154A

*Reports by unions.*—This section of the Revised Civil Statutes provides for the filing by labor unions of financial and other reports with the Secretary of State. Under the Federal statute, similar reports are required to be filed, under pain of loss of statutory benefits, with the Secretary of Labor.

## SECTION 10, REVISED CIVIL STATUTES 5154A

*Expulsion from union.*—This statute provides that it shall be unlawful to expel a union member except for good cause and upon a fair and public hearing. Courts are authorized to order reinstatement of any person expelled from the union in violation of the statute. Generally speaking, the Federal statute was not intended to interfere in the internal affairs of unions. Section 8 (b) (1) (A) specifically provides that such section shall not be construed so as to impair the rights of a union to prescribe its own rules with respect to the acquisition or retention of membership.

## SECTION 4A, REVISED CIVIL STATUTES 5154A

*Union officials.*—This section makes it unlawful for an alien or any person convicted of a felony whose rights to citizenship have not been restored to serve as an officer, official, or organizer of a labor union. The Federal statute does not

have a comparable provision except insofar as section 9 (h) denies a union access to the Board's processes unless its officers have filed non-Communist affidavits with the Board.

## SECTION 4B, REVISED CIVIL STATUTES 5154A

*Political contributions by unions.*—This section makes it unlawful for any labor union to make a financial contribution to any political party or person running for political office. Under the Federal statute, comparable prohibition will be found in section 304, which is an amendment to section 313 of the Corrupt Practices Act.

## SECTION 8, REVISED CIVIL STATUTES 5154A

*Work permit fees.*—This section makes it unlawful for any labor organizer or agent of a labor union to collect any fee as a permit to work. The Federal statute makes no mention of work permit fees but their collection may, under some circumstances, constitute a violation of section 8 (b) of the statute.

## SECTION 246, REVISED CIVIL STATUTES

*Right to arbitrate.*—This section provides for arbitration of labor disputes where the parties consent to such arbitration. It also provides that, during the pendency of the arbitration, employees or the organization representing them, shall not engage in or order a strike against the employer. Under the Federal statute compulsory arbitration is not provided for. Mediation of labor disputes by the Federal Mediation Service is provided for in title II of the statute. Strikes are considered to be unfair labor practices under certain circumstances, when they occur near the end of the contract term during negotiations for a new contract (sec. 8 (d)). Strikes may be temporarily enjoined in national emergency situations pending attempt by Government agencies to mediate the dispute and investigation by boards of inquiry into the merits of the dispute.

<i>Statute</i>	<i>Date</i>
1. Ch. 74, Laws of 1947 (bargaining, compulsory union membership).	Effective September 1947.
2. Ch. 387, Laws of 1947 (secondary boycott)-----	Do.
3. Ch. 100, Laws of 1947 (interference with work)---	Do.
4. Ch. 138, Laws of 1947 (mass picketing)-----	Do.
5. Ch. 84, Laws of 1947 (public utilities)-----	Do.
6. Ch. 132, Laws of 1947 (union responsibility)-----	Do.
7. Sec. 9, Revised Civil Statutes 5154a (union books of account).	Effective August 1943.
8. Sec. 3, Revised Civil Statutes 5154a (reports by unions).	Do.
9. Sec. 10, Revised Civil Statutes 5154a (expulsion from union).	Do.
10. Sec. 4a, Revised Civil Statutes 5154a (union officials).	Do.
11. Sec. 4b, Revised Civil Statutes 5154a (political contributions by unions).	Do.
12. Sec. 8, Revised Civil Statutes 5154a (work permit fees).	Do.
13. Sec. 246, Revised Civil Statutes (right to arbitrate).	Enacted 1895.

## UTAH

The State of Utah has a separate labor relations act similar to the National Labor Relations Act. In addition there are a number of other statutes in the labor relations field. A brief discussion of these statutes with cross-references to the Labor Management Relations Act of 1947 will be found below.

## UTAH LABOR RELATIONS ACT. SECTIONS 49-1-9 TO 49-1-25, UTAH ANNOTATED CODE

This statute is, in many respects, identical with the National Labor Relations Act. There are, however, some major points of difference which are set forth below:

*Employee.*—In the State statute, the term "employee" includes supervisors (section 49-1-10 (2)). In the Federal statute, supervisors are excluded (section 2 (3)).

*Commerce.*—Under the State statute, commerce means trade or traffic within the State of Utah (section 49-1-10 (b)). Under the Federal statute, commerce is defined in general as trade or traffic between the States or Territories of the United States (section 2 (6)).

*Unfair labor practices.*—Under the State statute, unfair labor practices are separated into three categories: Employer's unfair labor practices—employees' unfair labor practices—and those of third parties, which includes unions. Under the Federal statute, practices of employees are not designated as unfair labor practices. Employees who participate in unfair labor practices, however, are subject to discharge by the employer and do not have rights of reinstatement.

*Unfair labor practices of employers.*—In general, the unfair labor practices of employers in the State statute are the same as those set forth in the Federal statute with two exceptions. Unlike the Federal statute, the State statute, in section 49-1-16 (e) specifically provides that it shall be an unfair labor practice for an employer "to bargain collectively with representatives of less than a majority of his employees in a collective-bargaining unit." Under the Federal statute, it would be a violation of section 8 (a) (1) for an employer to recognize and bargain with a minority group as exclusive bargaining representative of all the employees in an appropriate unit or to bargain with a representative of a minority where another union represents the majority. An employer may, however, under the Federal statute, bargain with a representative of a minority of his employees so long as no one union represents a majority and so long as the employer does not bargain with such representative as the exclusive bargaining representative of all his employees in an appropriate unit. Finally, the State statute, in section 49-1-16 (c), permits closed-shop agreements which, under the Federal statute, are barred under the provisions of section 8 (a) (3).

*Employee unfair labor practices.*—The State statute provides that certain activities of employees, acting individually or in concert with others, shall be unfair labor practices. The Federal statute does not do so. However, the unfair labor practices set forth in this section of the State statute are carried over by reference into the next section which covers the activities of labor unions.

*Unfair labor practices by third parties.*—Section 49-1-16 (3) provides, in part, that it shall be an unfair labor practice "for any person to do or cause to be done, on behalf of or in the interest of employees or employers \* \* \* any act which is prohibited by subsections (1) and (2)." Under such provisions, the following are unfair labor practices of labor unions and their agents.

(a) To coerce or intimidate an employee in the enjoyment of his legal rights or to intimidate his family, picket his domicile, or injure the person of such employee or his family. With the exception of the prohibition against picketing of an employee's domicile, which is not a violation of the Federal statute, the conduct described would be violative of section 8 (b) (1) (A) of the Federal statute.

(b) To coerce, intimidate, or induce any employer to commit an unfair labor practice against his employees. Under the Federal statute, this conduct would be violative of section 8 (b) (2).

(c) To picket, boycott, or strike against an employer unless a strike has been authorized by a majority of the employees of the employer voting in a secret ballot. Under the Federal statute, the right to strike or picket is not conditioned upon a vote of the employees except in national emergency situations (sections 206-210) where a vote by secret ballot as to whether to accept the employer's last offer is provided for. It should be noted, however, that a strike, in such situations, is not unlawful even if a majority of the employees vote in favor of accepting the employer's last offer.

(d) To engage in mass picketing. Mass picketing is not specifically prohibited by the Federal statute. Where a union or its agents pickets in such manner as to block ingress to or egress from the employer's place of business, or where the picketing is accompanied by violence, threats, intimidation, etc., it is violative of section 8 (b) (1) (A) of the Federal statute.

(e) To engage in a secondary boycott. Under the Federal statute, generally speaking, secondary boycotts are made unfair labor practices. (See section 8 (b) (4)) and subject unions participating therein to suits for damages by the aggrieved party (section 303).

(f) To engage in a sit-down strike. Under the Federal statute, sit-down strikes are not specifically prohibited. Indulgence in such conduct by an employee subjects him to discharge by the employer without right of reinstatement.

*Representatives and elections.*—Generally speaking, the provisions of the State statute on these subjects are almost identical with those on the same subjects which were contained in the Wagner Act. They differ from the present National

Labor Relations Act to the extent, therefore, that the provisions of the Wagner Act on these subjects were amended by the Labor Management Relations Act of 1947. The State statute differs from the present National Labor Relations Act on these subjects, in the following important respects:

The State statute does not—

1. Make special provisions for guards and professional employees.
2. Limit the Board's right to find a craft unit inappropriate on the ground that a different unit has been established by prior Board determination.
3. Limit the number of elections which may be held in any one year.
4. Does not provide for union-shop authorization (UA) elections. (The State statute permits the closed shop and does not provide for elections as a condition precedent.)
5. Does not provide for decertification elections.
6. Does not provide for the filing of financial or other reports by unions nor for the filing of non-Communist affidavits by union officers.

*Prevention of unfair labor practices.*—Generally speaking, the provisions of the State statute on this subject are almost identical with those which were contained in the Wagner Act with the exception that references in the State statute are to State courts rather than Federal tribunals. They differ from the present N. L. R. A. to the extent, therefore, that the provisions of the Wagner Act were amended by the Labor Management Relations Act of 1947. The State statute differs from the present National Labor Relations Act on this subject in the following important respects:

The State statute does not.—1. Provide for any period of limitation within which charges in unfair labor practice cases must be filed. (The Federal statute, in section 10 (b) provides that no complaint shall be issued on any charge which is filed more than 6 months after the occurrence of the unfair labor practice.)

#### SECTION 49-1-35 UTAH CODE

*"Yellow-dog" contracts.*—This section provides that contracts between an employer and an employee whereby an employee promises not to join or remain a member of a union are unlawful and contrary to public policy and unlawful. Under the Federal statute, such contracts are not specifically prohibited. Such a contract would, however, be violative of section 8 (a) (3) of the Federal statute.

#### SECTION 49-1-37 UTAH CODE

*Union responsibility.*—This section provides that no union shall be liable for the unlawful acts of individuals except upon proof of actual authorization of the acts or ratification of the acts after actual knowledge thereof. Under the Federal statute, in determining whether any person is acting as an agent of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified is not controlling (sec. 2 (13)).

#### SECTION 49-5-1 UTAH CODE

*Blacklisting.*—This section provides that it shall be illegal for any person to blacklist any employee who has left his employ with intent to prevent him from securing other employment. Under the Federal statute, such conduct on the part of an employer may, under some circumstances, be violative of section 8 (a) (3).

#### SECTIONS 49-14-1, 49-14-3, 49-14-4 UTAH CODE

*Check-off of union dues.*—These sections permit check-off of union dues by an employer when an employee executes and delivers to his employer a written instrument authorizing such deductions. Failure to comply is a misdemeanor provided that the check-off does not exceed 3 percent per month. Under the Federal statute, dues check-off is permitted where the employee authorization is in writing, is not irrevocable for a period in excess of 1 year or beyond the date of the applicable collective agreement, whichever occurs sooner.

#### SECTIONS 49-1-29, 49-1-32, UTAH CODE

*Registration of strikebreakers.*—This section of the State statute provides that every person before starting to work for an employer whose employees are on



strike called by a nationally recognized union, must register in writing with the Industrial Commission of Utah, giving (1) his name, (2) place of residence for the past 5 years, (3) name of employer, (4) the time when he expects to commence work, and (5) the nature of the work to be performed. Violations of the section are made a misdemeanor. There is no comparable provision in the Federal statute.

1. Utah Labor Relations Act (secs. 49-1-9 to 49-1-25, Utah Annotated Code). Chapter 55, Laws of 1937, effective March 22, 1937. Amended by chapter 66, Laws of 1947, effective May 13, 1947.
2. Sec. 49-1-35, Utah Code ("yellow dog" contracts). Effective May 9, 1933.
3. Sec. 49-1-37, Utah Code (union responsibility). Effective May 9, 1933.
4. Sec. 49-5-1, Utah Code (blacklisting). Enacted 1898.
5. Sec. 49-14-1, Utah Code (check-off union dues). Effective Feb. 20, 1937.
6. Sec. 49-1-29, 49-1-32, Utah Code (registration of strikebreakers). Effective Feb. 16, 1937.

### VERMONT

1. *Vermont has no separate labor relations act similar to N. L. R. A.*
2. *Public Act 201, Laws of 1937<sup>1</sup> (sit-down strikes)*

(a) It is unlawful for three or more persons to conspire or act in concert for the purpose and with the intent to forcibly and unlawfully occupy, hold or possess any property, or parts thereof, against the will and consent of management.

(b) N. L. R. A. contains no like provision, however, discharge of employees under circumstances of unlawful seizure of property has been held proper.

3. *Sections 8590, 8591 (interference with employment)*

(a) It is unlawful to prevent the employment of a person in any occupation by threatening violence.

(b) Section 8, N. L. R. A., makes it an unfair labor practice for an employer to interfere with, restrain or coerce employees in the exercise of their self-organization rights. Also makes it an unfair labor practice for a union to restrain, or coerce employees in the exercise of their self-organization rights, or to cause or attempt to cause an employer to discriminate against an employee, except for the nonpayment of dues under union-security agreement.

4. *Public Act 186, sections 2-10, Laws of 1939 (cooling-off period)*

(a) Upon application of the employer or employees concerned by threatened strike or lock-out, the Governor will appoint a three-man mediation board which will make an award. The award is binding on the parties for 6 months or for 60 days after notice of either party of intention not to be bound thereby.

(b) Section 8 (d). Where a contract exists, neither party may terminate it without giving the other party 60 days' notice of a proposal to do so. During such period the existing terms of the contract must be maintained. An employee who strikes within the 60-day period loses his status under the act unless he is reemployed by the employer.

#### Reference

#### Date

- |   |              |
|---|--------------|
| 2. Public Act 201 (sit-down strikes)                  | 1937         |
| 3. Secs. 8590 and 8591 (interference with employment) | Revised 1933 |
| 4. Public Act 186, secs. 2-10 (cooling-off period)    | 1939         |

### VIRGINIA

References are to the Virginia Code of 1942. Virginia has no separate act similar to the National Labor Relations Act

#### I. "Yellow dog" contract

Virginia: The "yellow dog" contract is prohibited (sec. 4, ch. 2, Laws of 1947).

Taft-Hartley Act: The "yellow dog" contract would be violative of section 8 (a) (1) and (3) of the act in that it would discriminate in regard to hire or tenure of

<sup>1</sup>References are to the Public Laws 1933 and the Session Laws 1937, 1939, 1941, and 1943, unless otherwise indicated.

employment or any term or condition of employment to encourage or discourage membership in any labor organization.

## *II. Closed shop*

Virginia: The closed shop is prohibited (ch. 2, Laws of 1947).

Taft-Hartley Act: The act contains no similar provision, but section 8 (a) (3) prohibits such contracts.

## *III. Picketing*

Virginia: It is unlawful for any person or persons to interfere or attempt to interfere with another in the exercise of his right to work, by use of force, threats of violence or intimidation, or by use of obscene or threatening language directed toward such persons, to induce or attempt to induce him to quit his employment or refrain from seeking employment. Picketing by force or violence as to obstruct or interfere with free ingress or egress to and from any premises, public streets, sidewalks, or other public ways, is unlawful (ch. 229, Laws of 1946).

Taft-Hartley Act: Mass picketing is prohibited under 8 (b) (1) when it restrains or coerces employees in the exercise of the rights guaranteed in section 7; and under 8 (b) (4) the right to recognize a picket line around another employer's plant is reserved where strike was ratified by an authorized bargaining agent.

## *IV. Blacklisting*

Virginia: No one doing business, after having discharged an employee, or where an employee voluntarily leaves, shall willfully and maliciously, in any manner or way, prevent such former employee from obtaining employment elsewhere (sec. 1817, Code of 1942).

Taft-Hartley Act: The act contains no similar provision, but blacklisting would be prohibited by sections 8 (a) (1) and (3).

## *V. Check-off of union dues*

Virginia: No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization (sec. 5, ch. 2, Laws of 1947).

Taft-Hartley Act: Under section 302 (c) (4) check-off of union dues is permitted only where the employer receives a written assignment from each employee from whose pay check union dues are deducted. It is further provided that such assignments, if irrevocable, cannot be made for a period of more than 1 year or beyond the termination date of the applicable collective agreement, whichever occurs sooner.

## *VI. Public policy as to labor disputes in public utilities*

Virginia: "It is contrary to public policy to permit any substantial interruption in the operation of a public utility. Such utilities are clothed with a public-interest protection of which necessitates regulation by the Commonwealth of the relationship between employers and employees in those utilities engaged in the business of furnishing water, light, heat, gas, electric power, transportation, or communication" (sec. 1, ch. 9, Laws of 1947).

Taft-Hartley Act: The act declares that industrial strife can be avoided if employers, employees, and labor organizations recognize under law that neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety, or interest. And it is the purpose and policy of the act to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce (sec. 1 (b) and sec. 201 (a)).

## *VII. Laws pertaining to disputes in public utilities*

Virginia: Right of collective bargaining is recognized (sec. 2, ch. 9, Laws of 1947).

Taft-Hartley Act: Section 7 of the act guarantees the right of collective bargaining.

Virginia: Lock-outs by public utilities are unlawful (sec. 3, ch. 9, Laws of 1947).

Taft-Hartley Act: Whenever there is a lock-out affecting an entire industry or substantial part thereof engaged in trade, commerce, transportation, transmission, or communication, the President may appoint a board of inquiry, under section 206, and upon receiving a report from a board of inquiry may direct the Attorney General to petition any district court having jurisdiction of the parties to enjoin such lock-out, under section 208.

Virginia: Lock-out, strike, or work stoppage in connection with the operation of a public utility is unlawful until the following conditions are complied with: (1) for change of rate of pay or any other condition of employment notice must be given to other party, and a conference designated not less than 2 nor more than 60 days thereafter. If no agreement reached, the Governor shall be notified, and another conference held 10 days from time of final adjournment. (2) Governor may attend second conference. If either party feels further negotiations would be useless, then they shall notify the Governor. (3) Upon notice of the discontinuance of negotiations the Governor shall request both parties to submit to arbitration. (4) If parties unwilling to arbitrate and decide to strike or lock-out, it shall not be less than 5 weeks from time of notice to Governor (sec. 4, ch. 9, Laws of 1947).

Taft-Hartley Act: Nothing comparable in act. The act contains no such provision but section 8 (d) provides that collective-bargaining agreements may not be revoked or terminated without 60 days' notice; offer to bargain; 30 days' notice to the Federal Mediation and Conciliation Service; and no lock-out or strikes during the said 60 days.

Virginia: Governor may seize and operate the public utility if the strike or lock-out will interrupt essential service (sec. 5, ch. 9, Laws of 1947).

Taft-Hartley Act: Nothing comparable in act.

Virginia: It is unlawful to interfere with the operation by the Governor; provides for maintenance of status quo; return of properties (secs. 9, 11, 13, ch. 9, Laws of 1947).

Taft-Hartley Act: Nothing comparable in act.

I. "Yellow dog" contract: 1947.

II. Closed shop: 1947.

III. Picketing: 1946.

IV. Blacklisting: 1891.

V. Check-off of union dues: 1947.

VI. Public policy as to labor disputes in public utilities: 1947.

VII. Laws pertaining to disputes in public utilities: 1947.

## WASHINGTON

Sections referred to are the Remington's Revised Statutes. Washington has no separate act similar to the National Labor Relations Act.

### *I. Right to organize and bargain collectively*

Washington: It is lawful for employees to organize themselves into unions for the purpose of bettering the conditions of employment and increasing wages; no persons shall be prosecuted for entering into or carrying on any lawful arrangement between themselves made with a view of lessening hours of labor, increasing wages, or bettering working conditions (Rem. Rev. Stat., sec. 7611, 7614).

Taft-Hartley Act: Provides for the right of employees to self-organization, to form, join or assist labor organizations, and to bargain collectively (sec. 7).

### *II. Sit-down strikes*

Washington: Whoever engages in a sit-down strike shall be guilty of a felony (Rem. Rev. Stat., sec. 2563-4).

Taft-Hartley Act: No comparable provision.

### *III. Interference with employment*

Washington: It is a gross misdemeanor for two or more persons to conspire to prevent another from exercising any lawful trade or calling, or from doing any lawful act, by force, threats or intimidation, or by interfering or threatening to interfere with tools or property belonging to another, or with the use thereof (Rem. Rev. Stat., sec. 2382).

Taft-Hartley Act: Section 8 (a) (1) makes it an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7; section 8 (b) (1) makes it an unfair labor practice for a labor organization or its agents to restrain or coerce employees in the exercise of the rights guaranteed in section 7.

### *IV. Unlawful assembly*

Washington: Three or more persons assembling with intent to commit an unlawful act by force, are guilty of a gross misdemeanor (Rem. Rev. Stat., sec. 2550).

Taft-Hartley Act: No comparable provision. Section 8 (b) (1) has been interpreted to mean that picketing cannot interfere, restrain or coerce employees in their rights.

### V. "Yellow dog" contracts

Washington: "Yellow dog" contracts are not enforceable and affords no basis for legal or equitable relief (Rem. Rev. Stat., sec. 7612-3, pocket part, 1937).

Taft-Hartley Act: The "yellow dog" contract would be violative of section 8 (a) (1) and (3) of the act in that it would discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization.

### VI. Labor unions' liability for unlawful acts

Washington: No officer or member of any association or organization, and no association or organization in a labor dispute shall be held responsible for the acts of individual officers, members, or agents when such acts are unlawful, unless there is clear proof of participation, authorization, or ratification of such acts (Rem. Rev. Stat., sec. 7612-6, pocket part, 1937).

Taft-Hartley Act: Sections 8 (b) (1) (A) and 2 (13) have been interpreted by the Board under the Sunset Line & Twine Co. case, to wit: That the NLRB has a clear statutory mandate to apply the ordinary law of agency in determining a union's responsibility for unfair labor practices.

### VII. Blacklisting

Washington: It is unlawful for anyone to blacklist or publish in any manner whatsoever the name of a person to prevent such a person from obtaining employment, or for the purpose of having that person discharged from employment (Rem. Rev. Stat., sec. 7599).

Taft-Hartley Act: The act contains no similar provision but blacklisting would be prohibited by section 8 (a) (1) and (3).

- I. Right to organize and bargain collectively: 1919.
- II. Sit-down strikes: 1919.
- III. Interference with employment: 1909.
- IV. Unlawful assembly: 1909.
- V. "Yellow dog" contracts: 1933.
- VI. Labor unions' liability for unlawful acts: 1933.
- VII. Blacklisting: 1899.

## WEST VIRGINIA

1. West Virginia has no separate labor relations act similar to N. L. R. A.

2. *Sections 2459, 2461 (labor disputes of mine workers).*

(a) It is unlawful to prevent a person from working in or about a mine by threats, force, or otherwise. However, it is not unlawful to induce a person not to work in or about a mine, for lawful purposes, by persuasion or argument.

(b) N. L. R. A. contains no provision directed at a specific industry, however, section 8 (a) (1) makes it an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of their self-organization rights, and 8 (b) makes it an unfair labor practice for a union to restrain or coerce employees in the exercise of their right to join or refrain from joining a union, or to cause or attempt to cause an employer to discriminate against an employee, except for nonpayment of dues or initiation fees under a union-security agreement.

3. *Section 6038 (unlawful assembly)*

(a) Five or more individuals, assembled for an unlawful purpose of threatening violence to person or property of a person supposed to have violated a law, is a mob, and if damage is inflicted they are guilty of a felony.

(b) N. L. R. A. contains no like provision, however, mass-picketing employees may be refused reinstatement on the basis of misconduct.

4. *Section 6037 (strike breaking)*

(a) Employers are prohibited from engaging nonresidents for police duty or in any way to assist in the execution of the State laws.

(b) N. L. R. A. contains no like provision, however, an employer engaged in strike breaking would violate section 8 (a) of the act.

5. *Section 175 (interference with political activities)*

(a) It is unlawful for an employer to influence the political actions or opinions of his employees by the threat that if any particular candidate is elected

or defeated work will cease, or any other threat. It is also unlawful to prevent an employee from voting by threat of discharge.

(b) N. L. R. A. contains no like provision.

6. *Section 12 (time off to vote)*

(a) An employee may absent himself from work for 3 hours to vote in an election without penalty or deduction from pay. Violators are guilty of a misdemeanor.

(b) N. L. R. A. contains no like provision.

<i>Reference</i>	<i>Date</i>
2. Secs. 2459 and 2461 (labor disputes of mine workers)-----	1887-1907.
3. Sec. 6038 (unlawful assembly)-----	1921.
4. Sec. 6037 (strike breaking)-----	1893.
5. Secs. 169 and 175 (interference with political activities)-----	1882.
6. Sec. 121 (time off to vote)-----	1891.

## WISCONSIN

### LABOR LAWS OF THE STATE OF WISCONSIN

Chapter III enacted in 1939 and amended in 1947 is designated the Employment Peace Act<sup>1</sup>

#### SECTION 111.01. POLICY

It is the policy of the State to protect and promote three major interests: The rights of the public, the employee, and the employer. Industrial peace, regular and adequate income for the employees and uninterrupted production of goods and services promote these interests and these depend upon the maintenance of fair, friendly and mutually satisfactory employment relations and the availability of adjustment machinery. Certain employers, including farmers, etc., face special problems with regard to perishable commodities and seasonal production. Rights of disputants, however, should not intrude, in the conduct of their controversy, into primary rights of third parties to earn a livelihood, transact business, etc., free from interference or coercion. Negotiation of terms and conditions of work should result from voluntary agreement between employer and employees and for this purpose employees have the right of association and collective bargaining without intimidation or coercion. The State's policy is also to establish standards of fair conduct in employment relations and to provide a convenient, expeditious, and impartial tribunal for adjudication of respective rights and obligations.

As compared with this stated policy, section 1 of the Federal statute finds that denial of right to organize and refusal to bargain collectively by some employers leads to strikes and industrial strife. This burdens commerce. Inequality of bargaining power between employees without freedom of association of actual liberty of contract and well-organized employers burdens commerce and aggravates business depressions. Protection of right to organize and bargain collectively safeguards commerce. The acts of some labor organizations by strikes and industrial unrest burden or obstruct commerce and impair public interest therein.

The policy is to eliminate the causes of obstructions and the obstructions to commerce by encouraging collective bargaining and protecting the right of association and designation of representatives for negotiation of terms and conditions of employment or other mutual aid or protection.

#### SECTION 111.02. DEFINITIONS

"Person" is defined as in section 2 of the Federal statute, except "labor organization" is not specified, and includes every recognized legal entity.

"Employer" is defined to include all who engage services of an employee and any person acting on behalf of an employer within the scope of his authority, express or implied, but excludes the State and its subdivisions and labor organizations and their agents unless employers in fact. The Federal statute section

<sup>1</sup> *La Crosse Telephone Corp. v. Wisconsin Employment Relations Board*, U. S. S. Ct. January 17, 1949, holds that the Wisconsin board is without jurisdiction of representation proceedings involving employees whose employer is engaged in interstate commerce in an industry over which the National Labor Relations Board has consistently exercised jurisdiction, regardless of the fact that the National Labor Relations Board has taken no action with regard to these employees or this employer.

2 omits the first definition of the State statute. It includes any one acting as an agent of an employer, directly or indirectly and excludes Federal and State Governments and their agencies, nonprofit hospitals, persons subject to the Railway Labor Act and labor organizations and their agents unless employers in fact.

"Employee" as in section 2 of the Federal statute includes all who work for hire (limited, of course, to those in the State) except executives and supervisors, domestics, children or spouses of employers, and employees subject to the Railway Labor Act. It does not exclude agricultural workers like the Federal Statute. It includes those out of work because of a current labor dispute or unfair labor practice of the employer, unless (1) he has refused or failed to work after a competent tribunal acceptable to the employee has disposed of the dispute or charge of unfair labor practice (2) he has been found to have committed or to have been a party to an unfair labor practice (3) he has obtained regular and substantially equivalent work elsewhere (4) he has been absent from his employment for a substantial period of time during which reasonable expectancy of settlement has ceased (except by employer's unlawful refusal to bargain) and his place has been filled by a permanent worker not a strike breaker. The Federal statute has a similar inclusion but contains only the third exception.

"Representative" includes any person the employee has chosen to represent him while the Federal statute specifies any individual or labor organization.

"Collective bargaining" is negotiation in good faith between an employer and a majority of his employees in a collective bargaining unit or their representatives concerning representation or terms and conditions of employment. In the Federal Statute the term is defined in section 8 (d) only for the purposes of that section as performance of the mutual obligation of the employer and the employees' representative to bargain in good faith with respect to wages, hours, and other terms and conditions of employment or negotiate an agreement or question thereunder or to execute a written contract if either party requests it. Neither party, however, is compelled to agree to a proposal or make a concession.

"Collective bargaining unit" means all the employees of an employer within the State unless a majority of them in a single craft, division, department, or plant vote by secret ballot to constitute a separate unit or unless the Board with the agreement of all parties affected thereby finds the unit to be an industry, trade, or business of several employers in an association in any geographical area. Several units may bargain collectively through one representative if a majority of each unit vote by secret ballot to do so. There appears no definition of collective bargaining unit in the Federal Statute but in section 9, which deals with representatives and elections, subsection (d) authorizes the Board to decide whether the appropriate unit shall be the employer, craft, plant unit, or subdivision of plant unit. The unit may include both professional and nonprofessional employees only if a majority of the professionals so vote and may not include guards. The Board may not decide the unit is inappropriate because previously a different unit has been established by it.

"Labor dispute" means controversy between an employer and the majority of his employees in a collective bargaining unit concerning the right, process or details of collective bargaining or designation of a representative. Organizations with which the employer and the majority of employees are affiliated may be considered parties. Section 2 of the Federal statute defines the term at greater length but to the same effect except that it does not limit the parties to a majority of employees nor to those who have employer-employee relationship.

"All-union agreement" is one between an employer and an employee representative whereby all employees in the unit are required to be members of a single labor organization. This definition of a closed shop does not appear in the Federal statute nor is a closed shop permitted although under section 8 (3) upon the fulfillment of stated conditions an agreement may be made that membership in the union after 30 days from the beginning of employment shall be required.

"Election" means employees' in a bargaining unit casting secret ballot for representative or for other purpose under the statute and includes elections conducted by the Board and by any tribunal of competent jurisdiction or whose jurisdiction the parties accept. No such definition appears in the Federal Statute. Section 9, however, provides full machinery for elections which are conducted only by the Board and are by secret ballot.

"Secondary boycott" includes combining or conspiring to cause or threaten injury to one with whom no labor dispute exists whether by withholding patronage, labor, or other beneficial business intercourse, by picketing, refusing to handle, etc., particular materials, or by any other unlawful means in order to force him into a concerted plan to coerce or damage another. "Jurisdictional strike" means one growing out of a dispute between employees or employee representatives as to the appropriate unit for collective bargaining or as to which is to act as representative or as to whether employees represented by one or the other representative are entitled to perform particular work. Neither of these definitions appear in the Federal statute. Section 8 (b) (4), however, makes it an unfair labor practice for a union to engage in or induce or encourage employees to engage in a strike or concerted refusal to handle, etc., goods or perform services for four named objects the first of which is forcing or requiring any employer to cease dealing, etc., in products of another producer or to cease doing business with any other person; and the fourth of which is forcing or requiring any employer to assign particular work to employees in one union, trade, craft, or class rather than to those in another unless the employer is not conforming to a Board order.

#### SECTION 111.03

This section creates the Board.

#### SECTION 111.04, RIGHTS OF EMPLOYEES

This section defines the right of employees to organize, to join unions, to bargain collectively through their chosen representatives and to engage in concerted activities as well as to refrain from doing so in the same terms as section 1 of the Federal Statute. Section 1, however, limits the right to refrain to the extent that agreement requiring union membership as a condition of employment is authorized.

#### SECTION 111.05, REPRESENTATIVES AND ELECTIONS'

The first paragraph like section 9 (a) of the Federal Statute provides for the selection of exclusive bargaining representatives subject to the right of individuals or groups to present grievances to the employer. In the latter case the State statute as contrasted with the Federal Statute permits these individuals or groups to choose a representative for the purpose and the right is not limited as in the Federal statute to the adjustment being consistent with the collective-bargaining agreement then in effect and to the right of the collective-bargaining agent to be present.

The second paragraph provides for a secret ballot to determine the collective bargaining unit. In section 9 (b) the Federal Statute leaves this to the determination of the Board.

The third paragraph defines the method of selecting exclusive bargaining representatives. The Board is empowered to exclude from the ballot anyone who at the time of the election has been deprived of his rights because of an unfair labor practice. The ballot must permit a vote for no representation. Subject only to court review (as provided in Section 111.07) the Board's certification of the result is made conclusive. In general the method of election is similar to the method in section 9 (c) of the Federal Statute but the Federal Statute contains no provision for eliminating from the ballot one who has been found to have committed an unfair labor practice nor does it permit a vote for no representation except where a petition is filed asserting that a recognized or certified representative no longer is the choice of the majority.

The fourth paragraph provides for run-off elections, which eliminate from the ballot the representative receiving the fewest votes or of a vote for no representation if that received the fewest votes. The run-off provided in section 9 (b) (e) of the Federal Statute is between the two receiving the largest and second largest number of votes.

The last paragraph provides that the question of representation may be raised by petition of employer, employee or representatives of either. This is similar to section 9 (e) of the Federal Statute.

The paragraph further provides that the fact that one election has been held shall not prevent holding another if the Board finds sufficient reason exists. Section 9 (c) (3) of the Federal Statute prohibits more than one valid election per year.

## SECTION 111.06. UNFAIR LABOR PRACTICES

(1) As to employers it is an unfair labor practice individually or in concert with others.

(a) To interfere with, restrain or coerce his employees in the exercise of their rights in section 111.04. This is the same as section 8 (a) (1) of the Federal Statute.

(b) To dominate or interfere with the formation or administration of a union or contribute support except that the employer may reimburse employees for time spent conferring with him and may cooperate with a representation chosen by a majority of employees by permitting use of company facilities and premises if the use creates no additional employer expense. This subsection is similar to section 8 (a) (2) of the Federal Statute in its prohibitions but the exception in the Federal Statute is only that the employer may permit conference during working hours without loss of pay.

(c) To encourage or discourage union membership by discrimination with the exception that an employer may make an "all union" agreement if two-thirds of the voting employees and at least a majority of the unit so vote. The authority to make the agreement continues until either party to the agreement requests a new vote. The Board then investigates and if it finds there may be a change of attitude conducts a new referendum. A vote for the continuance continues the authority and a vote against terminates the authority at the termination of the contract or at the end of 1 year whichever is earliest. The Board must declare the agreement terminated whenever upon request of any interested party it finds that the union has unreasonably refused membership to an employee. The Board is prohibited from entertaining an employer's petition for a referendum where he has or is negotiating a contract with a duly constituted bargaining representative unless he has agreed with the union that he will make an all-union contract if the referendum shows employee approval.

The portion of the subsection providing against encouragement or discouragement of unionization is similar to that in section 8 (a) (3) of the Federal Statute. The exception in that section, however, permits only an agreement requiring as a condition of employment membership in the union after 30 days following the beginning of employment or effective date of the agreement whichever is later. The agreement may be made only with the exclusive bargaining representative, as certified, for the unit involved and only if a majority of those eligible to vote have so authorized in an election which, under section 9 (e), may be held only on petition alleging that 30 percent or more of the employees in the unit desire the agreement and only if no question of representation exists.

(d) To refuse to bargain collectively with a majority of his employees in a unit except, where the employer has filed a representation petition, he is not deemed to refuse to bargain until the Board has certified the results of an election. This subsection is similar in purport to section 8 (a) (5) of the Federal statute.

(e) To bargain collectively with representatives of less than a majority of his employees in a unit or to enter into an all-union agreement except as provided. This provision does not appear in the Federal statute but the acts would constitute unfair labor practices under section 8 (a) (1) and 8 (a) (2).

(f) To violate the terms of a collective bargaining agreement (including an agreement to accept an arbitration award. There is no such provision in the Federal statute.

(g) To refuse or fail to recognize or accept as conclusive the final determination of any issue as to employment relations by a tribunal of competent jurisdiction or whose jurisdiction the employer accepted. There is no such provision in the Federal statute.

(h) To discharge or otherwise discriminate against an employee because he has filed charges or given information or testimony in good faith under the statute. Section 8 (a) (4) of the Federal statute is to the same general effect except that the word "information" is omitted as is the requirement of good faith.

(i) To deduct union dues or assessments from an employee's earnings except under order signed by the employee and terminable annually on 30 days' notice. This is not an unfair labor practice under the Federal statute but, by section 302, it is made unlawful for an employer to pay or any employee representative to receive money or other valuable things. One exception to this prohibition is money deducted from wages in payment of membership dues in a union if the employer has an employee's written assignment irrevocable for not more than a



year or beyond the termination date of the collective agreement whichever occurs sooner.

(j) To employ any person to spy upon employees or their representatives respecting their exercise of any rights under the statute. This provision does not appear in the Federal statute but under some circumstances it would be an unfair labor practice under section 8 (a) (1).

(k) To make, circulate, or cause to be circulated a blacklist. This is not specified in the Federal statute but it would be unfair labor practice under section 8 (a) (1).

(l) To commit any crime or misdemeanor in connection with any controversy as to employment relations. There is no such provision in the Federal statute.

(2) As to employees it is an unfair labor practice individually or in concert with others to do 11 stated acts. The Federal statute has no provisions relating to unfair labor practices by employees.

(3) It is an unfair labor practice for any person to do or cause to be done on behalf of employers or employees or in connection with any controversy as to employment relations any act prohibited by subsections (1) "employers" and (2) "employees". Since this provision would affect labor organizations and their agents the prohibitions of subsection (2) are compared here with unfair labor practices of unions in section 8 (b) of the Federal statute.

(a) To coerce or intimidate an employee in enjoyment of his rights or to intimidate his family, picket his domicile or injure the person or property of an employee or his family. Section 8 (b) (1) of the Federal statute proscribes restraining or coercing an employee but does not contain reference to family or property. That section reserves the union's right to prescribe its own rules with respect to membership.

(b) To coerce, intimidate, or induce an employer to interfere with employees in enjoyment of their rights or to engage in any unfair labor practice with regard to them. Section 8 (b) (2) of the Federal statute proscribes causing or attempting to cause an employer to discriminate against an employee, to encourage or discourage union membership, or against an employee whose membership in the union has been denied or terminated on some ground other than failure to tender regular dues and initiation fee.

(c) To violate the terms of a collective-bargaining agreement (including an agreement to accept an arbitration award). There is no such provision in the Federal statute.

(d) To refuse or fail to recognize or accept as conclusive the final determination of any issue as to employment relations by a tribunal of competent jurisdiction or whose jurisdiction the employee or their representatives accepted. There is no such provision in the Federal statute.

(e) To cooperate in engaging in, promoting or inducing picketing (except constitutionally guaranteed free speech), boycotting or any other overt concomitant of a strike unless the majority in a bargaining unit of an employer against whom the acts are primarily directed have voted to strike by secret ballot. There is no such provision in the Federal statute although under section 8 (b) (4) such acts would be an unfair labor practice if they induced or encouraged employees of an employer to strike or refuse to handle goods or perform services where an object of the strike or refusal is to force or require an employer or self-employed person to join a union or employer organization or an employer to cease dealing in the products of or doing business with another; to recognize a union unless it has been certified; to recognize a union if another has been certified; or to assign particular work to a particular union, craft, or class rather than to another except under Board order.

(f) To hinder or prevent by mass picketing, threats, intimidation, force or coercion the pursuit of lawful work or to obstruct or interfere with entrance to or egress from a place of employment, or to obstruct or interfere with free and uninterrupted use of roads, streets, highways, railways, airports, or other ways of travel or conveyance. There is no such provision in the Federal statute but under some circumstances the acts would be an unfair labor practice under section 8 (b).

(g) To engage in a secondary boycott; or to hinder or prevent by threats, intimidation, force, coercion, or sabotage, the obtaining, use, or disposition of materials, equipment or services, or to combine or conspire to do so. Sympathetic strikes in support of those in similar occupations working for other employers in the same craft are permitted. The secondary boycott has been compared with section 8 (b) (4) of the Federal statute under "Definitions." The other provisions

do not appear in the Federal statute but under some circumstances the acts would be unfair labor practices under section 8 (b).

(h) To take unauthorized possession of property of the employer or to engage in concerted effort to interfere with production except by leaving the premises in an orderly manner to strike. There is no such provision in the Federal statute but the acts would be an unfair labor practice under section 8 (b) (2) or (4) under some circumstances.

(i) To fail to give notice of intention to strike provided in section 111.11 (this provides that employees in production, harvesting, or initial processing of dairy or farm products where a strike would tend to cause destruction or serious deterioration of the product must give the Board 10 days' notice of intention to strike). There is no such provision in the Federal statute.

(j) To commit any crime or misdemeanor in connection with any controversy as to employment relations. There is no such provision in the Federal statute.

(k) To engage in, promote or induce a jurisdictional strike. The comparison of this provision with that of section 8 (b) (4) of the Federal statute has been discussed under "Definitions."

#### SECTION 111.07. PROCEDURES

The procedures relating to the filing of charges, the hearings before the Board or hearing commissioner, the issuance of orders by the Board and review and enforcement by courts are substantially the same as those provided in the Federal statute with one exception. In addition to the remedies which may be contained in Board orders under the Federal statute, the State statute provides that the order may suspend the rights, immunities, privileges, or remedies granted by the statute as respect any party complained of. (Note that this includes omission from the ballot refer section 111.05, "Representatives and election," and from the definition of employee—out of employment—in "Definitions.")

#### SECTION 111.08. FINANCIAL REPORTS TO EMPLOYEES

Every employee bargaining representative is required to submit annually to each member a detailed written financial report and the Board may order compliance.

Under section 8 (f) of the Federal statute the Board is prohibited from investigating representation questions, entertaining union-shop petitions or issuing complaints in behalf of a union which has failed to submit to its members a financial report similar to that required by the State statute. The Board, however, may not order the submission of such report.

#### SECTION 111.09. BOARD REGULATIONS

As in the Federal statute the Board is empowered to issue procedural regulations.

#### SECTION 111.10. ARBITRATION

On petition of the parties the Board is authorized to arbitrate a labor dispute or appoint disinterested persons as arbitrators. The Federal statute contains no such provision.

#### SECTION 111.11. MEDIATION

On request or on its own initiative the Board may appoint a mediator in any labor dispute. The mediator, however, has no power of compulsion. The section also provides for strike notices in disputes regarding agricultural industries as discussed previously under section 111.06 (3) "unfair labor practice." The Federal statute in section 4 forbids the appointment of mediators by the Board. Title III, however, provides for the Federal Mediation and Conciliation Service directed toward the same purpose of peaceful settlement. The Service is to avoid attempts at mediation of disputes having only a minor effect on commerce.

#### SECTION 111.12. DUTIES OF ATTORNEY GENERAL

The Attorney General is directed to act for the Board upon request. The Federal statute sections 3 and 4 permits the Board to appoint attorneys to represent it in court and the Board has delegated this authority to the general counsel.

## SECTION 111.13

This provides for the appointment by the Board of an advisory committee. There is no such provision in the Federal statute.

## SECTION 111.14

Penalties are provided for interference with the Board or its agents in the performance of their duties. Section 12 of the Federal statute provides penalties for similar acts.

## SECTION 111.15

This provides that the statute shall not be construed to interfere with right to strike or to work or to invade the right to freedom of speech. Section 13 of the Federal statute reserves the right to strike and section 8 (c) provides that expression of views shall not be evidence of unfair labor practice if they contain no threat of reprisal or force or promise of benefit.

## SECTION 111.16

Validates existing agreements. Section 102 of the Federal statute provides that no act shall be an unfair labor practice if performed under an existing agreement or under one entered into prior to the effective date, if for a period not exceeding a year, provided the act would not have been an unfair labor practice under the prior statute.

## SECTIONS 111.17 THROUGH 111.19

These are technical legal provisions.

## SUBCHAPTER III

This chapter provides at length for conciliation and arbitration of labor disputes involving public utilities. It makes unlawful strikes, slow-downs, work stoppages, and lock-outs in these industries as well as the inducement, encouragement or conspiracy to engage in strikes, slow-downs, work stoppages or lock-outs. The violation of this later provision is made a misdemeanor. There are no specific provisions in the Federal statute dealing with public utilities as such, although title II provides for injunctions and arbitration in labor disputes which the President finds imperil the Nation's health and safety.

In addition to the Employment Peace Act the State statutes have other miscellaneous provisions relating to labor relations.

## SECTIONS 103.46 AND 103.52. "YELLOW-DOG" CONTRACTS

Agreements between employer and employee to join, not to join, or remain a member of an organization or to withdraw from employment upon joining or remaining a member are void and unenforceable.

There is no specific provision in the Federal statute but such agreements would be unfair labor practices under section 8 (a) (1).

## SECTION 133.05 ANTITRUST LAWS

Labor organizations and collective bargaining by producer associations in agriculture and by unions are exempted from the antitrust laws. There is no such provision in the Federal statute but exemptions appear in the antitrust statutes.

## SECTION 103.43 (1A). STRIKES, ETC.

The section defines when a strike or lock-out exists. There is no such provision in the Federal statute.

## SECTIONS 103.535 AND 103.62 (3) AND 343.681. PICKETING

Picketing or interference with business is unlawful unless there is a labor dispute which is defined as in the Employment Peace Act. Such interference or compelling one to act against his will by two or more is a misdemeanor. There are no such provisions in the Federal statute. Related unfair labor practices are discussed under the Employment Peace Act.

## SECTION 343.683. INTERFERENCE WITH EMPLOYMENT

It is a misdemeanor to prevent a person from engaging in lawful work except by peaceful persuasion during a strike or lock-out. There is no such provision in the Federal statute but under some circumstances the act would be an unfair labor practice under sections 8 (a) (1) and 8 (b) (1).

## SECTION 347.02. UNLAWFUL ASSEMBLY

Assemblage of three or more in violent manner to do or attempt to do an unlawful act is unlawful and if disturbance of others results, the acts constitute a riot. This police measure is not contained in the Federal statute.

## SECTION 103.54. RESPONSIBILITY FOR AGENTS

Unions are not responsible for unlawful acts of officers or agents except upon proof of the act and the union's actual participation, authorization, or ratification after actual knowledge nor are officers or members liable for such acts except on similar proof.

The Federal statute in section 301 provides for suits against labor organizations and specifies that unions are bound by the acts of their agents and that for the purpose of that section agency is not to be determined by the question whether the acts were authorized or subsequently ratified. The section also provides that money judgments against a union may not be enforceable against a member.

## SECTION 343.682. BLACKLISTING

Blacklisting is a misdemeanor. The act would be an unfair labor practice under section 8 (a) (1) of the Federal statute.

## SECTION 348.472. STRIKEBREAKING

Use of armed guards for protection of property or suppression of strikes except where authorized is unlawful.

The acts would be an unfair labor practice under section 8 (a) (1) of the Federal statute under some circumstances.

## SECTION 104.10. DISCRIMINATION FOR TESTIMONY

Discharge or discrimination or threats thereof for testimony relating to Women's and Minors' Minimum Wage Act is a misdemeanor.

Related unfair labor practices under the Federal statute are discussed under Employment Peace Act.

## SECTION 348.22, 348.221, AND 6.047. POLITICAL ACTIVITIES

Influencing employees' votes by threats or promises and distribution of written matter containing the same are unlawful nor may an employer refuse to allow an employee to serve at the polls.

Employer may not require labor on primary election days and 3 hours' leave with pay must be allowed for elections or primary elections.

The Federal statute contains no such provision.

## MEDIATION BY STATE AGENCY

The constitution provides that the legislature shall enact laws for the regulation of conciliation tribunals which shall have power to render judgments that are obligatory upon the parties whom they voluntarily submit and agree in writing to abide by the judgment.

## SECTION 101.10 (8)

Provides for appointment and regulation of arbitration boards by the industrial commission, a deputy of which shall be chief mediator.

Other provisions relating to labor relations appear under Employment Peace Act wherein applicable sections of the Federal statute are discussed.

## SECTION 103.43. ADVERTISEMENTS

Advertisements for labor without stating the existence of a strike or lock-out, if any, is unlawful. A strike or lock-out exists as long as do the usual concomitants or as long as unemployment continues or strike benefits are paid or picketing is maintained. The Federal statute contains no such provision.

Chapter III of the statutes of the State of Wisconsin, referred to in the preceding pages incorporating sections 111.01 through 111.65, was enacted in 1939. The following sections were added or amended on the following dates.

*Section*

111.02	Collective bargaining unit.....	Amended 1945.
111.02	All-union agreement.....	Amended 1945.
111.02	Jurisdictional strike.....	Added 1947.
111.05	Fourth paragraph providing run-off elections...	Added 1947.
111.06	(1) (c).....	Amended 1943 and 1945.
111.06	(2) (e).....	Amended 1943.
111.06	(2) (k).....	Added 1947.
111.07	.....	Amended 1943.
111.13	.....	Amended 1943 and 1947.

The other sections of the statutes of the State of Wisconsin, referred to in the preceding pages, were enacted or amended on the following dates:

Section	Enacted	Amended	Section	Enacted	Amended
103.46 .....	1929		343.682 .....	1887	
103.52 .....	1935		348.472 .....	1893	
133.05 .....	1921	1923.	104.10 .....	1921	1923.
103.43 (1A) .....	1925		348.22 .....	1913	
103.535 .....	1939		348.221 .....	1911	
103.62 (3) .....	1931	1935 and 1939.	6.047 .....	1945	
343.681 .....	1887		101.10 (8) .....	1931	
347.02 .....	1878		103.43 .....	1911	1913, 1915, 1919.
103.54 .....	1931	1935.			

## WYOMING

Sections referred to are the Wyoming Compiled Statutes of 1945. Wyoming has no separate act similar to the National Labor Relations Act

*I. Rights to organize and bargain collectively*

Wyoming: Workers shall have the right to organize for the purpose of collective bargaining and for their mutual aid and protection and the employees shall be free from any interference of any kind from their employers (sec. 54-501).

Taft-Hartley Act: Provides for the right of employees to organize and bargain collectively (sec. 7), and it is an unfair labor practice for an employer to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7 (sec. 8 (b) (1)).

*II. Labor organization's liability for unlawful acts*

Wyoming: No officer or member of any organization, and no organization participating or interested in a labor dispute, shall be held responsible for unlawful acts of individuals, except upon clear proof of actual participation in, authorization of, or ratification of, such acts after actual knowledge (sec. 54-506).

Taft-Hartley Act: The act would seem to cover this State provision under sections 8 (b) (1) and 2 (13) as interpreted by the Board under the Sunset Line & Twine Co. case, to wit: That the NLRB has a clear statutory mandate to apply the ordinary law of agency in determining a union's responsibility for unfair labor practices.

I. Right to organize and bargain collectively: 1933.

II. Labor organization's liability for unlawful acts: 1933.

Senator NEELY. When was that compilation made?

Mr. DENHAM. Within the last 30 days.

Senator MURRAY. Were these State acts enacted prior or after the Taft-Hartley Act?

Mr. DENHAM. Well, the compilations in the main, Senator, indicate the references.

Now, Alabama is a code of 1940; Arizona reference is made to the code of 1939, unless otherwise indicated. They are annotated, and I assume that that means that the code, as revised and supplemented from time to time.

In California, the reference was made to the California Labor Code. There is no date given to it.

Senator MURRAY. Of course, it may have been a code that was enacted some years prior, but was subsequently amended.

Mr. DENHAM. I may say, sir, that most of this material was taken from current publications.

Senator MURRAY. Current publications.

Mr. DENHAM. Yes.

Senator MURRAY. That would mean that these acts were recent acts enacted around the time of the Taft-Hartley Act.

Mr. DENHAM. Not necessarily; no. It takes the date of the law as it existed currently. When this investigation was made much of this material was taken from material cited by the clearing house in its current publications.

Senator DONNELL. For instance, Mr. Denham, in our own State of Missouri, as you recall, and I might ask you, you practiced law in St. Louis, did you not?

Mr. DENHAM. Yes, sir.

Senator DONNELL. Some years ago.

In our State we have a revision every 10 years, and this expression "RS" to which you referred, Revised Statutes, is the reference to the revision, and takes place in the even 10 years, 1940, 1950, and so forth. It is entirely possible that you may not have all of the acts, is it not, in some instances here by reason of not having covered other than the revisions?

Mr. DENHAM. It is conceivable.

Senator HUMPHREY. Mr. Chairman, does the Senator yield?

Senator DONNELL. Yes.

Senator HUMPHREY. I would like to ask a question in reference to the Senator's interrogation.

Under section 10 (e) of Public Law 101, the Board is empowered to delegate, under certain—

Mr. DENHAM. To cede.

Senator HUMPHREY. To cede or delegate.

Mr. DENHAM. There is a difference between those two terms, "cede" and "delegate."

Senator HUMPHREY. I will use the word cede—the jurisdiction over to States in certain unfair labor practices if the State law is not inconsistent, is that right?

Mr. DENHAM. That is right.

Senator HUMPHREY. Have you found any States where you have done this?

Mr. DENHAM. We have found no States with laws sufficiently consistent with the provisions of the Taft-Hartley Act, and applied with the same consistency that applied to the Taft-Hartley Act would

justify a direct cession of jurisdiction over any of the matters that fall within the statutory jurisdiction.

Senator TAFT. How about New York?

Mr. DENHAM. New York has a little Wagner Act, and there is no point of contact where we can work together. We spent a great deal of time with the New York board. We have spent a great deal of time with the Massachusetts board, with the Pennsylvania board, with the Wisconsin and Minnesota boards, but we have not yet been able to find any spots where a cession could be made, which could be carried—on which the receiving board could carry through.

Senator HUMPHREY. Would that indicate to you that the provisions or the detail of the Taft-Hartley Act are more extensive or less extensive, less or more comprehensive than State law? The problem, obviously, is the problem of the States, too. I mean, business is located in some State. Now, the State law applies to that particular business, even if it is in interstate commerce.

Mr. DENHAM. The Taft-Hartley Act is very young, Senator, and has not had time to, as it were, take on the laws of the various States.

There are very few States that had a real opportunity to enact any laws. I think Massachusetts is the one State that has really made an effort to get in line, and I do not know how far that went. I only saw it in the beginning stages and in what stage it stopped, if it has stopped, I could not tell you.

Senator HUMPHREY. Well, as an observer of politics, I was always of the opinion that like the recent NAM campaign to get at the grass roots, the NAM did a previous little job on the grass-roots level, and had begun undermining the provisions of the Wagner Act at a State level. After they got a certain number of States properly prepared, then they tried it on the Congress. I mean, that is just my own personal observation.

Mr. DENHAM. You see, Senator, I am not a politician, and I do not know anything about politics.

Senator HUMPHREY. You do very well. I want to congratulate you. There is one other question I want to ask you.

You said yesterday, I believe, that you agreed with the Taft-Hartley provision outlawing the right of Federal workers to strike. Is that right?

Mr. DENHAM. Very definitely.

Senator HUMPHREY. You approve of a provision, or do you feel that State workers likewise should be denied the right to strike?

Mr. DENHAM. When you get into that you are dealing with generalities in both areas, Senator. I am very much impressed with the comments that Senator Morse had to make last night.

When you are carrying on the governmental business, I do not think anybody has a right to strike there where he is in the public service, and in the service which is that of carrying on Government business.

But when the Government gets into business, business which is competitive or is in the same field with other businesses, then you may have a different picture.

I have not crystallized my thinking on that, but I am very much impressed by what Senator Morse has to say.

Senator HUMPHREY. You said, however, to Senator Donnell's question on public utilities that you did not believe they had a right to strike, is that right?

MR. DENHAM. I have some ideas with reference to utilities, banks, and things of that sort, which are the lifeblood of the Nation, that might lead into a great deal of controversy, and I would rather not get into a discussion on that, if I may be excused from it.

Senator HUMPHREY. All right. Let me ask you this question: Do you believe that these people who have been denied the right to strike should be denied the right of having a union?

MR. DENHAM. Oh, absolutely no. They are entitled to a union.

Senator HUMPHREY. Do you believe the processes of the union in terms of a grievance procedure, in terms of seniority, in terms of their working conditions should be observed in the negotiations between Government agencies or Government representatives and unions?

MR. DENHAM. You are getting into a lot of factors there in one package.

Senator HUMPHREY. I am speaking of the union as it ordinarily operates. I mean a union that would carry on its normal negotiating practices with Government.

MR. DENHAM. Government?

Senator HUMPHREY. Up to the point where, of course, there is no strike.

MR. DENHAM. Government is and perforce must be allowed in the main to set up its own conditions of employment and its rates of pay.

Now, then, there are many times when there are grievances in the operation of the governmental function which affects the individual, and he should be entitled to have some place where he can go to talk those things over, and to do something about getting them settled.

Senator HUMPHREY. Do you recognize a union of the National Labor Relations Board?

MR. DENHAM. We have a union in the National Labor Relations Board, and I have advised them that they have a place where they may go, and they do, and their grievances are all discussed with our administrative officer on any occasions they have anything to talk to them about. There are some things they have asked me to do which I do not think that I can do as a governmental official.

Senator HUMPHREY. Haven't you told the representatives of that union that you would not permit your subordinates to make any decisions in reference to agreements between the union and the subordinate?

MR. DENHAM. No; that question has never been raised.

Senator HUMPHREY. It has never been raised?

MR. DENHAM. No.

Senator HUMPHREY. I would like to refresh your memory just a little bit here. Here is a document containing notes on a meeting that was held with you on November 17, 1947. Present for the NLRB was Robert N. Denham, Joseph Wells, Charles Brooks, David Findling, and Ellison D. Smith. Present for the union was the executive committee, and three representatives of the legal local of the NLRB union, and three representatives of the clerical and administrative local.

I cannot vouch for the authenticity of these remarks, but I just offer them to you for whatever you may say.

The general counsel is reported to have said:

Let's get this straight: I'll agree to nothing; there is no place for agreements in the Federal service; it's not in the cards. Promotion and appointment are management's prerogatives—



and the union said:

For purposes of discussion, the posting or announcing of vacant positions and invitation of applications may be distinguished from the basis of selection. Both Washington and the field were confused by the failure to post certain positions that were filled while the position of chief law officer in Baltimore and a P-5 in Fort Worth were posted. We believe that postings should be made of all positions so that the field and Washington personnel can rest assured that they will have an opportunity to apply for any vacancy or newly created position. The basis of selection among applicants, after posting, is another subject concerning which the union wishes to bargain with the objective of reaching agreement on an objective standard of selection.

The general counsel is reported to have said:

I will not agree to be bound by anything. It is my responsibility to select the most qualified people to operate this act, and where I find the person who is the most eminently qualified person to fill a particular job, he is the person who will get it. Posting is a sham where you know in advance who is the person who will get the job—we all know that in the past most of the jobs which were posted had already been filled by telephone prior to the posting. In my case, I consider everyone carefully and I will give the break to the insider. If in my judgment there is no one person I can put my finger on to say he is the most qualified person for the job, then I will post and invite applications as in the case of the chief law officer in Baltimore. However, I am not committing myself.

The union says:

Do you mean to determine when postings will be made and the basis of selection unilaterally?

GENERAL COUNSEL. Yes, unilaterally, if you want to put it that way. Anything else is not in the cards.

THE UNION. But, Mr. Denham, when an employer did that, the Board for many years has found that an unfair labor practice.

GENERAL COUNSEL. That was under the Wagner Act; this is under Taft-Hartley.

THE UNION. Does that mean you are abrogating agreements between the Board and the union which have existed since 1938?

GENERAL COUNSEL. Let's get this straight. I'll agree to nothing—we simply do not have that kind of time under the present set-up to post and invite applications, look over the list, and have a waiting period. It simply isn't in the cards.

Down later on——

MR. DENHAM. Well, read it all, Senator.

SENATOR HUMPHREY. Do you want to have the whole thing in the record?

MR. DENHAM. I do not care. I do not like this business of taking a sentence——

SENATOR HUMPHREY. I am reading this——

MR. DENHAM (continuing). Or a piece of the paragraph out of something out of context.

SENATOR HUMPHREY. We had a little talk this morning about trying to keep this thing down, but if the committee would like to have me read this, that is all right.

THE UNION. Mr. Denham, giving credence to your statement that you desire to give the edge to insiders and that you consider all such insiders carefully before going outside, posting provides an easy, orderly method of informing everyone what jobs are available and of letting you know who is interested.

GENERAL COUNSEL. Oh, we are realistic enough to know everyone is interested in a promotion. We have ways of finding out.

THE UNION. But how would you know whether the man in Los Angeles is interested in a different kind of job in Washington, for example; and moreover, wouldn't it be better for you to work with a list of 30 or 40 applicants rather than with a list of 700, assuming you seriously considered the entire staff for each job, for certainly the P-1 or P-2 may be just as qualified and as interested,

from your viewpoint in the P-5 or P-6 which may open as the first and immediately below that grade.

GENERAL COUNSEL. Or an outsider may be more qualified; too.

What I am just trying to point out to you here, Mr. Denham, is that when we deny people the right to strike——

Senator DONNELL. Just a minute, Senator. The witness has requested that you read it all.

Senator HUMPHREY. I shall give it for the record. I am a little more considerate of the time here, and I will put the entire thing in the record.

Senator DONNELL. I think the witness should be consulted about that. Do you desire the rest of it to be read?

Mr. DENHAM. I do not recall ever having seen this.

Senator DONNELL. What union are you talking about?

Senator HUMPHREY. I am talking about the executive committee of the National Labor Relations Board union, notes of a meeting of November 17, the NLRB union and Robert Denham, general counsel.

Mr. DENHAM. That was a meeting, Senator, and at that meeting there were some discussions in which this union was attempting to urge me, as general counsel, to adopt the provisions of an arrangement or a contract or something that they had had with the National Labor Relations Board for some years in which they primarily were concerned with this question of posting of particular vacancies.

Senator HUMPHREY. Yes.

Mr. DENHAM. And they had a procedure whereby vacancies had to be posted for a certain length of time; the persons could apply for the job.

Senator HUMPHREY. There is nothing wrong in that, is there?

Mr. DENHAM. No; we do it all the time now.

Senator HUMPHREY. I just wanted—don't scold me—I just wanted to know.

Mr. DENHAM. I am not scolding.

Senator HUMPHREY. I just wanted to know.

Mr. DENHAM. But it is just common sense to post notices of that sort.

Senator HUMPHREY. Sure.

Mr. DENHAM. Because after all we want everybody to know if there is a job vacant, let him come in and let us know that he is interested in it.

We are delighted to have him.

Senator HUMPHREY. But the report here indicates that you have said that you would not be bound by any such thing, is that right?

Mr. DENHAM. Well, just let me continue, sir. So, this contract provided then, that having posted and the applications having come in, there was some procedure, and I am not entirely familiar with all of the details of it, by which the executive committee or somebody in the union was advised as to who was the probable selection, and then there was a period of 10 days or 2 weeks or some period of time in which those who had not been selected among the applicants were given their right to file a grievance because they had not been picked out.

Then, that had to be mulled over and decided and determined, and I do not know what the appellate procedures were, but there were some of those, which meant the matter of selecting a CAF-5 stenog-

rapher could be extended over a period of many weeks, and in the last analysis, the fellow who had the job and who was responsible for the performance of that job was handicapped in his selection of his personnel.

Now, we have got a job to do, and it is a serious job to do, and we are under an obligation to the people of the United States to do it the best way we know how with the best personnel available.

Senator HUMPHREY. May I just interrupt to say that there was no intention on the part of the union or any statement here that indicated that they were going to select the people for you. All they asked was that they be notified as interested public servants that there were new positions available.

Mr. DENHAM. Senator, I lived with the board for 10 years, and I saw those things from a distance; I did not have to come in contact with it very much because in the Trial Examiners' division we did not have any of that stuff, and none of the members of the Trial Examiners' division, with very few exceptions in the later days, were members of that union, and those were carry-overs, men who had been promoted from the operation parts of the board. All I can say is that if I have got to do a job, as a Government official charged with that responsibility, I do not think that I have any authority to make any agreement with anybody which ties my hands or in any way whatsoever restricts me in the getting and the selecting of the best people that are available to do that job so long as I stay within the regulations and the restrictions of civil service.

Senator HUMPHREY. All I am saying to you, Mr. Denham, is this: That we deny people the right to strike, which is your feeling in reference to the Federal employees; you have not committed yourself on State employees, and we will speak about Federal employees.

Then, you say to me that you believe they ought to have a union, they have the right to have a union.

Mr. DENHAM. There is no reason why they should not have a union if they want one.

Senator HUMPHREY. Then you said the union negotiates at times with your subordinates.

Mr. DENHAM. I beg your pardon?

Senator HUMPHREY. You said at times, the unions negotiate at times with your subordinates.

Mr. DENHAM. Why, they have grievances, and they can talk to Mr. Shaw about those grievances on very frequent occasions, and his door is always open to their committee.

Senator HUMPHREY. But in this statement it says, "I do not propose nor will I permit any of my subordinates to submit to anything."

Mr. DENHAM. I am far from assured that that is an accurate statement.

Senator HUMPHREY. I am asking, Can you deny the validity of the statement?

Mr. DENHAM. That is a year or 15 months ago.

Senator HUMPHREY. All I am saying is that it appears that way to me.

Senator MORSE. Will the Senator yield?

Senator HUMPHREY. Just one moment. It appears to me that if we deny the right of people to strike, then we must permit them to

have the full protection of their own organization for their particular job.

Now, any employer that I have ever talked to who has been opposed to unions, those that are, has always put his case on the basis of "I want to have the best men on the job. If I have a union, I have to have seniority; if I have a union, I have to have grievances; if I have a union, we have a lot of working rules, and if I want production, I have got to go out and hire the best people."

Now that is all right in terms of that employer if he wants to talk that way. I do not agree with that philosophy, but the main thing is we have other people involved in this process.

When you make a pointed statement that we have the right to deny people the right to strike when they are in Federal employment, then surely we ought to give them adequate protection to make sure that they will in some way get their grievances answered, some way that they can have in-service promotions, some way that they can know of a new opportunity or a new position and some way in which they can say something about negotiation with respect to pay schedules.

Mr. DENHAM. I suggest, Senator, that if that is the feeling of Congress it might be in order to put it in the form of a definitive law.

Senator MORSE. Will the Senator yield?

Senator DONNELL. I think the Senator from Ohio had a point to make.

Senator TAFT. I want to know whether you know of any rule of posting and the right of competitors to come in and complain about the fellow selected in any other department that you have ever heard of.

Mr. DENHAM. I do not know of any.

Senator HUMPHREY. The Post Office Department does it and it is quite a big department.

Senator TAFT. You mean, let people come in and let them criticize your proposed appointment? I cannot see that.

Senator HUMPHREY. They post all vacancies.

Senator TAFT. That is different.

Senator HUMPHREY. You post them and besides that you have a postal workers union.

Senator TAFT. But he is complaining that the other parts of this agreement would have extended this thing for weeks while they protested against the particular man who was indicated as the prospective employee, and other restrictions, which seem to me to be impossible for any Government department to work with.

Mr. DENHAM. That is right. That is the attitude, Senator, that was taken. I told these people that I would surely be glad to post whenever there is a vacancy to be filled, and there is not some outstanding person right there ready to step in whom we know is the person we want to step into it, and of course, we will post.

Senator HUMPHREY. You can always give an acting appointment.

Mr. DENHAM. All the regions would know that and give them a reasonable time to decide whether they are interested and take their applications, and you can go to our bulletin boards and you will find on every one of them two or three notices of posting of vacancies.

Senator HUMPHREY. Do you have civil-service competitive examination for these positions?

Mr. DENHAM. Oh, yes.

Senator HUMPHREY. All the way?

Mr. DENHAM. In your entry, yes, sir.

Senator HUMPHREY. I am talking about your administrative positions.

Mr. DENHAM. I beg your pardon?

Senator HUMPHREY. Your administrative positions.

Mr. DENHAM. Not among the attorneys.

Senator HUMPHREY. You do not?

Mr. DENHAM. No, sir.

Senator HUMPHREY. No civil service on that. In other words, that is a type of spoils system in there.

Mr. DENHAM. Oh, no, not at all. Congress has prohibited civil service from processing attorney jobs; therefore, they are turned loose.

Senator HUMPHREY. I do not want to belabor this point.

Mr. DENHAM. We make our selections among those we see fit.

Senator HUMPHREY. I am bringing out a philosophy which to me is important, anyway, which is that when we, by law, deny people certain rights that we permit them to have in other areas of life or in other areas of our economy, then we surely ought to go out of our way to permit them, as long as we say that they have a right of a union, to permit them to use the processes of unions as far as it is commensurate with or as it meets with the requirements of the law.

Mr. DENHAM. It might be a good philosophy to put into law, Senator. Of course, I do not agree.

Senator HUMPHREY. I am of the opinion it is better not to put those things into the law. It is better to have those things in your heart.

Senator DONNELL. Will the Senator permit me to proceed with my examination?

Senator HUMPHREY. Yes, indeed.

Senator MORSE. With the permission of the Senator from Missouri—

Senator DONNELL. Pardon me a second. With respect to this sheaf of documents concerning the laws of the various States, will you see that it is brought to the present time so that we have it right up to the present time?

Mr. DENHAM. Yes, sir.

Senator HILL. May I ask a question about that sheaf?

Senator DONNELL. Yes, sir.

Senator HILL. Mr. Denham, does your memoranda there show the dates of these particular statutes?

Mr. DENHAM. No, it does not, Senator. If you would like to have that, I can have my staff go back and put those in.

Senator HILL. It seems to me that ought to be shown.

Senator DONNELL. I would like to have that, too, Mr. Denham.

Mr. DENHAM. All right. If I may withdraw them I will have notations made on them, of the date of the various actions referred to, and return them.

Senator DONNELL. The date of the enactment of the respective statutes.

The CHAIRMAN. Does the Senator want all of those put into the record?

Senator DONNELL. Yes, sir. These are the 46 States.

Senator NEELY. Senator, will you yield to me for two or three questions?

Senator DONNELL. I just yielded to the Senator from Oregon.

Senator MORSE. With permission of the Senator from Missouri, I would like to try to lay a simple foundation for this document through this witness.

Senator DONNELL. This document from which Senator Humphrey read?

Senator MORSE. The document from which Senator Humphrey read, because I see nothing to be gained by putting it in the record if the document is not properly identified and the foundation laid for its authenticity. I will do it rather quickly.

Mr. Denham, I have in my hand a document entitled "Notes on Meeting of November 17, 1947, NLRB Union, Robert N. Denham, General Counsel," which I hand you. Do you testify that on November 17th such a meeting was held?

Mr. DENHAM. Why I can only say this, Senator: that at about that time a group—I think it was the executive committee of the NLRB Union requested permission to call on me, and they did call on me, probably some twenty-odd persons came in. Now, it may not have been November 17, but about that time.

Senator MORSE. Will you please inspect the document and answer the question as to whether or not your inspection shows that the document sets forth substantially an accurate account of what transpired at the meeting in respect to your conversation therein?

Senator TAFT. Is the Senator asking the witness about the authenticity of this document or as to the accuracy of it.

Mr. DENHAM. Going through the first part of the second page, Senator Morse, it has the appearance of being a verbatim report. Seriously, I do not recall that there was any record made of the conference, and I would question that phase of it.

Senator DONNELL. You mean it purports to be a verbatim report?

Mr. DENHAM. It has all the appearance of being that, yes, sir.

Senator DONNELL. You distinguish between what it purports to be and whether you know it was actually being reported?

Mr. DENHAM. I am quite certain it is not a verbatim report, although many of the subjects that are mentioned here were mentioned there. I am inclined to think that some of them are perhaps a little colored, but in the main the topics that we were discussing there are almost entirely confined to this question of posting and the posting under the program of posting for a period, notification of a selection to the authorities, the allowing of a period for the filing of grievances, and then the processing of grievances and the various appeals that might take place in connection with them and the loss of time incident thereto, to say nothing of the restrictions on the question of the freedom of the men who have the jobs, who are responsible for the jobs, to pick their people.

Now, Dave Findling, who is sitting on my left, and Joe Wells, on my right, are heads of operating departments. They have numerous men under them. They themselves are responsible officials. I do not pick their men for them. They pick them.

Senator MORSE. I understand that, Mr. Denham, but my question which I want to get over as quickly as I can is, Does this offered docu-

ment substantially set forth with accuracy the observations that you made at that meeting on the topics discussed?

Mr. DENHAM. I should have to be bound by all that is in here. I do not think it is entirely correct, but in substance we dealt with the topics that are dwelt upon here, and in about the manner that is covered by this document, so far as I have been able to observe.

Senator TAFT. About authenticity; have you ever seen that document before?

Mr. DENHAM. I do not recall ever seeing it before.

Senator TAFT. Was any stenographer present to take it down?

Mr. DENHAM. None that I noticed.

Senator MORSE. I have no objection to it.

Senator DONNELL. Mr. Chairman, I do object to it. I think there is not sufficient proof of the accuracy or correctness of it. I have no objection to the person who took this stenographic report coming here and testifying as to whether it is right.

How many pages are there, Mr. Denham?

Mr. DENHAM. Six pages.

Senator DONNELL. I think that it is decidedly unwise and, in fact, I think unfair to the witness to require him to sit here and look over this document and tell us whether or not that is a correct and accurate statement.

Now, if the stenographer who took it is present or can be procured, I have no objection to his coming and testify.

The CHAIRMAN. It will be ordered to be printed in the record, I think.

Senator DONNELL. If it has been so ordered, I move for reconsideration.

Senator TAFT. I think, taking this thing together with Mr. Denham's testimony, it can be taken for what it is worth. It is not according to the rules of evidence.

Senator MORSE. It has been substantially qualified.

Mr. DENHAM. I do not think this is a grievous misrepresentation, but I am afraid there is coloring matter in it.

The CHAIRMAN. Is there a second to the motion of the Senator—

Senator DONNELL. Mr. Chairman, I will withdraw that motion, but I want it distinctly and very clearly shown in this record, as I understand it, that Mr. Denham is not agreeing that this is accurate or correct. He thinks that the subject matter therein set forth, as I understand it, is approximately a correct statement of the subject matter that was discussed.

Mr. DENHAM. That is right.

Senator DONNELL. Generally speaking, from what he has thus observed, I understand him to think it is approximately correct, although he does not desire to be bound by any specific statement; is that correct?

Mr. DENHAM. That is correct.

Senator HUMPHREY. Senator Donnell, I did not want it to be put into the record as a word-by-word accounting. However, I understand it is and it was made from stenographic notes that were taken at the time of the meeting, but that can be verified by the people who did it.

All I want to demonstrate is that if the substance of that report is somewhere near accurate and if the comments that Mr. Denham has made in reference to that report are to be taken as they were given,

then it demonstrates to me an anti—I will not say an anti—it demonstrates to me a bias against the legitimate practices of unions as they pertain to their dealings with Government agencies, that is all. That is my own personal observation, and that was the only purpose of bringing this to your attention.

Senator DONNELL. I have withdrawn the objection. The record should show what I have stated.

Senator TAFT. Mr. Denham, just as a matter of interest, is this union affiliated with any national union?

Mr. DENHAM. None that I know of.

Senator TAFT. An independent union?

Mr. DENHAM. It is an independent union, one wholly within the National Labor Relations Board.

The CHAIRMAN. The notes will be made a part of the record.

(The document referred to is as follows:)

NOTES ON THE MEETING OF NOVEMBER 17, 1947, NLRB UNION AND ROBERT N. DENHAM, GENERAL COUNSEL

Present: Robert N. Denham, general counsel; Joseph Wells, associate general counsel; Charles Brooks, associate general counsel; David Findling, associate general counsel; Ellison D. Smith, special assistant to the general counsel.

Executive committee, NLRB Union.

Three representatives of Legal Local, NLRB Union.

Three representatives of Clerical and Administrative Local, NLRB Union.

NOTE.—The following is an account of the above meeting between the general counsel and the union. The statements below are not verbatim but they are as accurate as the 13 union officers and members present can recollect. No stenographer was present.

GENERAL COUNSEL (after introductions). Let's get down to cases. Why are you here?

UNION. First of all we understand you will only give us 30 minutes and we wonder what we can cover in that time.

GENERAL COUNSEL. I can only give you 30 minutes. I have another appointment at 4:30. We have had to allocate our time very carefully these days.

The spokesman for the union stated to Mr. Denham that the union had sent Mr. Denham three letters, dated September 5, October 23, and November 12, to which the union had not received replies. The September 5 letter contained a brief history of the relationship between the union and the Board since 1938 and particularly outlined a summary of the extended negotiations between the union and the Board. A pink slip was attached to the September letter outlining six subjects of bargaining the union wished to discuss. It was apparent that all these matters could not be discussed in 30 minutes and that the union would like to discuss posting and then arrange for further conferences looking toward reaching an agreement on all points referred to in the foregoing letters and attachments.

GENERAL COUNSEL. Let's get this straight, I'll agree to nothing, there is no place for agreements in the Federal service, it's not in the cards. Promotion and appointment are management's prerogatives, and I don't propose, nor will I permit any of my subordinates to agree to anything. I want the best people in the jobs, that's my responsibility.

UNION. For purposes of discussion, the posting or announcing of vacant positions and invitation of applications may be distinguished from the basis of selection. Both Washington and the field were confused by the failure to post certain positions that were filled while the position of chief law officer in Baltimore and a P-5 in Fort Worth were posted. We believe that postings should be made of all position so that the field and Washington personnel can rest assured that they will have an opportunity to apply for any vacancy or newly created position. The basis of selection among applicants, after posting, is another subject concerning which the union wishes to bargain with the objective of reaching agreement on an objective standard of selection.

GENERAL COUNSEL. I will not agree to be bound by anything. It's my responsibility to select the most qualified people to operate this act, and where I find the person who is the most eminently qualified person to fill a particular job, he is



the man who will get it. Posting is a sham where you know in advance who is the person who will get the job—we all know that in the past most of the jobs which were posted had already been filled by telephone prior to the posting. In my case, I consider everyone carefully and I will give the break to the insider. If in my judgment there is no one person I can put my finger on to say he is the most qualified person for the job, then I will post and invite applications as in the case of the chief law officer in Baltimore. However, I am not committing myself.

UNION. Do you mean to determine when postings will be made and the basis of selection unilaterally?

GENERAL COUNSEL. Yes, unilaterally, if you want to put it that way. Anything else is not in the cards.

UNION. But, Mr. Denham, when an employer did that, the Board for many years has found that an unfair labor practice.

GENERAL COUNSEL. That was under the Wagner Act; this is under Taft-Hartley.

UNION. Does that mean you are abrogating agreements between the Board and the union which have existed since 1938?

GENERAL COUNSEL. Let's get this straight. I'll agree to nothing—we simply do not have that kind of time under the present set-up to post and invite applications, look over the list, and have a waiting period. It simply isn't in the cards.

UNION. Mr. Denham, giving credence to your statement that you desire to give the edge to insiders and that you consider all such insiders carefully before going outside, posting provides an easy, orderly method of informing everyone what jobs are available and of letting you know who is interested.

GENERAL COUNSEL. Oh, we are realistic to know everyone is interested in a promotion. We have ways of finding out.

UNION. But how would you know whether the man in Los Angeles is interested in a different kind of job in Washington, for example; and moreover, wouldn't it be better for you to work with a list of 30 or 40 applicants rather than with a list of 700, assuming you seriously considered the entire staff for each job, for certainly the P-1 or P-2 may be just as qualified and as interested, from your viewpoint, in the P-5 or P-6 which may open as the person immediately below that grade.

GENERAL COUNSEL. Or an outsider may be more qualified too.

UNION. Mr. Denham, the staff in the field and in Washington are sophisticated in personnel and labor relations and they are accustomed to a system where they have the opportunity to apply for vacant positions and grieve appointments, and to be told why they were not selected \* \* \* if they are deemed unqualified they want to be told why. Many employees in the field and in Washington are remaining with the Board because they know that with vacancies occurring they will have an opportunity to apply for such positions. If a more qualified person is appointed they remain, knowing that the next vacancy may be their chance. If such postings are not made, they will lose confidence in advancing and will look elsewhere and it will also do much to lower morale. You have heard the saying that this act is a full employment bill for lawyers. Without confidence of advancement on merit they will leave the Board which is what neither the union nor the Board wants.

GENERAL COUNSEL. If they are no good, they wouldn't be here. We don't have time; when we are so busy with operative details to hear grievances—I am the best judge of who is qualified. When I make a decision, I am not going to change it; I haven't made any mistakes.

UNION. We want the best men in the jobs too, Mr. Denham. That is why we propose the continuation of the posting system. We hope to convince you that posting is the orderly way to achieve that end and that selection could be based on certain predetermined standards of service and efficiency. The two questions of posting and selection can, however, be discussed separately.

GENERAL COUNSEL. We don't have time for that. We consider everyone on the staff, but don't have time for posting, considering everyone who applies, and then notifying them. It's not in the cards.

UNION. Posting saves you time.

GENERAL COUNSEL. I or my assistants know the qualifications of everyone on the Board's staff; I consider everybody.

UNION. We have heard that statement made before, but under the posting system in the past we have been able to show appointing officers that they have not had or have not considered all the available information.

GENERAL COUNSEL. Show me where I've made a mistake.

UNION. We're not saying you've made mistakes. We think, however, that a posting system will save you time and help you in making selections, in getting the best man for each job. That's the way we've been operating since 1938.

GENERAL COUNSEL. Yes; and look at the staff you have as a result of collective bargaining. When I took over I found people who were in positions they weren't qualified to fill, and others who were held down when they were well able to hold responsible positions.

UNION. The posting system helps you fill those positions.

GENERAL COUNSEL. The subject is one for my discretion; I am fair; I shall post those positions for which I do not have someone already in mind, but when I have made a decision, I shall not change it; I shall not hear grievances on it. It's not in the cards. However, I want you to understand that I am not agreeing to do that; I shall not be bound by anything.

UNION. There may be cases without a posting system which persons well qualified may be unfairly passed over.

GENERAL COUNSEL. I am against injustice; when I find injustice I shall take care of that.

UNION. How do you find out these injustices?

GENERAL COUNSEL. I have ways, don't fear.

UNION. But if an employee "stinks" shouldn't he be told about it at the time of selection from the posting?

GENERAL COUNSEL. If an employee "stunk" I wouldn't have to wait to tell him at the time of a posting. He wouldn't be with us.

I am fair, I haven't made any mistakes yet; I believe in promotion from within, but if a person on the outside is eminently qualified he is the man for the job.

UNION. We are not accusing you of being unfair, and we realize the magnitude of your job, but why shouldn't employees be allowed to apply for specific positions and be told why they are not selected?

GENERAL COUNSEL. They can apply for every position; in fact, Mr. Brooks has by memorandum invited all personnel who want to work in the field to apply.

UNION. But without posting, employees do not know what vacancies are open and whether they qualify.

GENERAL COUNSEL. I suspect they all know.

UNION. Now let's discuss the grievance procedure to be used when an employee believes he is qualified but is rejected.

GENERAL COUNSEL. I am not going to agree to hear grievances. We do not have the time to explain to every applicant why he wasn't selected nor will I allow any of my staff to do so.

UNION. Why shouldn't employees be told why they were not selected?

GENERAL COUNSEL. We don't have the time; it's not in the cards. Of course any employee can see Mr. Findling, Mr. Wells, or Mr. Brooks at any time that one of those gentlemen is not too busy. But I am not going to give any reasons for making a decision to anyone. I posted the position for Chief of the Affidavit File Section.

UNION. Yes, and 37 employees applied. It certainly improved morale among the clerical employees.

GENERAL COUNSEL. I think that we could post some of the jobs.

UNION. Clerical and professional?

GENERAL COUNSEL. We are just talking about the clerical now. I wouldn't post key positions, requiring technical qualifications for the job where there was someone I knew was just the person for the job.

UNION. Perhaps we could agree that certain supervisory jobs should be excepted from posting.

GENERAL COUNSEL. By supervisory jobs I don't mean supervisory jobs in the ordinary sense; I mean responsible jobs.

UNION. What jobs are those?

GENERAL COUNSEL. I could probably post CAF-2 and 3 jobs. But I won't agree to that; I am not going to be bound by anything.

UNION. Can we distinguish between supervisory and nonsupervisory jobs—let's leave the supervisory jobs aside.

GENERAL COUNSEL. What counts with me is the degree of responsibility which attaches to the job—not whether it's supervisory or nonsupervisory. We are going to expand the staff by 250 in the next 90 days—and we'll have to work fast—we'll try to do the best job we can—and we don't think we have committed any injustice so far.

UNION. You mean that you will hire people of higher grades without notifying the Board personnel of those jobs, and giving them a chance at the jobs?

GENERAL COUNSEL. Yes; if the people from the outside have the qualifications and can do the job.

UNION. What about people who have been with the Board a number of years, how will they know what they lack in the way of qualifications, whether it is education, or experience, so that they may be able to qualify?

GENERAL COUNSEL. Let them go to the personnel officer and find out.

UNION. Ninety percent of your employees at least are better satisfied if they are given an opportunity to apply for vacancies and are told why they are not selected.

GENERAL COUNSEL. Then I disagree with 90 percent of my employees.

UNION. Mr. Denham, certainly you don't mean to say that you don't care what your employees think of the way you handle personnel matters?

GENERAL COUNSEL. I didn't say that. I think that I could post most of the positions, except the responsible ones and except those for which I have my own candidates. But I won't be bound by that.

UNION. You mean that you would post for the positions you wanted to post for and not for the others?

GENERAL COUNSEL. It is a matter for my own discretion. I couldn't find anyone for the regional attorney in Baltimore, so I have posted it.

UNION. What objective standards are used in making the selections?

GENERAL COUNSEL. You can't measure lawyers with a yardstick. I pick the man who can do the job, the man who is eminently qualified for the job that has to be done.

UNION. As an example of how selections are being made, can you tell us why P-3 attorneys with excellent efficiency ratings who have been with the Board for some time were not given P-4's, and men were brought in from the outside as P-4's and P-5's?

GENERAL COUNSEL. We brought men in for the jobs because they were eminently qualified for the jobs. The men we had in the agency were not qualified or they would have been selected. The efficiency ratings don't mean much. It's not in the cards. We know all our men, we know who's best fitted. That is a matter of discretion to be determined solely by me.

CHARLES BROOKS. Well, I just want to say that in cases where you can't say, this guy is "it," like my wife was "it" when I asked her to marry me, posting is O. K.; but where you know in advance that a particular guy should have a particular job there's no point in posting it. For example, recently there was a P-5 vacancy and a man was sitting there at a P-4 who would have had a P-5 long ago but for the budgetary difficulties and I knew he was entitled to that job, and I would have given it to him over any other applicant. I see no sense in posting nor in explaining to an applicant why I didn't select him for he would never be satisfied with the explanation.

UNION. Mr. Brooks, in that sort of case, you may be perfectly justified, but that is exactly the kind of information which other prospective applicants in the field would like to know so that they'd be certain that the reason they didn't get the job was because someone else had a better equity to it, not because they [the applicants] weren't qualified for it. It's the lack of information which is the source of so much grief, particularly in the field. It would be very simple in the case you cited to call the union in and to explain why you took the action you did, and it would save you and us from the "beefs."

Charley, it makes all the difference in the world to an employee to obtain an explanation though he isn't satisfied with it, and not being given an explanation. You can hardly expect all employees to be satisfied when they believe they qualify but if the appointment of another person is merited you have done your job and should not thereafter be concerned if the disappointed applicant is not satisfied with the explanation.

The union then went on to its memorandum of October 23, 1947, requesting that certain information be given to clerical and administrative employees. The general counsel had a memorandum from the personnel office which in substance contained the information requested with the exception of the eligibility requirements for the jobs in the National Labor Relations Board.

UNION. This is just the information we think should be disseminated to the employees.

GENERAL COUNSEL. Disseminated—what do you mean "disseminated"?

UNION. We mean that this is the information we think the employees should be given and suggest that the personnel office distribute this memorandum to the employees.

GENERAL COUNSEL. They are too busy to do things like that. They are too busy to prepare the material you request on the Board's position, setting forth the requirements for promotion to all positions on the Board. Even if we gave it to the clericals, they wouldn't understand it anyway.

UNION. But unless the employees know the qualifications they cannot prepare themselves.

GENERAL COUNSEL. I suspect they all know. They can get the information they need by stopping at the personnel office.

UNION. Mr. Denham, we think that it is a function of your personnel office to distribute this information, but we shall be glad to perform the functions of your personnel office.

GENERAL COUNSEL. You may have this memorandum; I thought I had a copy, but I don't.

UNION. With authority to distribute copies of it to your employees?

GENERAL COUNSEL. I don't care what you do with it.

UNION. We should like to summarize what has taken place here this afternoon. First, you will post vacancies except for supervisory jobs and you will post supervisory jobs when you don't have anyone to fill the job.

Mr. Brooks. That statement should be qualified.

GENERAL COUNSEL. Yes; that should be qualified. I won't agree to anything; it's not in the cards. I have kept Johns waiting since 4:30.

Mr. Brooks. I'd better not interject any more.

GENERAL COUNSEL. Of course, if there are any injustices such as one of my staff passing over a person because he doesn't like the "cut of his jib," then I want to know about it.

UNION. How do you want to learn of it? In writing, or should the employee see you himself?

GENERAL COUNSEL. No; not a letter. Let Ogden come in and tell me about it and if there is an injustice, it will be straightened out.

UNION. It is only reasonable that as a matter of enlightened personnel administration you should want to continue a system of filling vacancies and making promotions which will give you the best people and satisfy your employees that such personnel actions are being handled in a fair manner and that passed-over employees are being told why they are not being promoted.

GENERAL COUNSEL. Let's get this straight. I will not justify my selection to anyone and I will not permit anyone on my staff to justify or explain their selections to anyone. Mr. Johns has been waiting for me over a half hour. That's all. (Meeting ended.)

Senator DONNELL. Mr. Denham, yesterday I noticed that you were testifying from various charts. Are there any other charts or any specific data that is set forth in either a statistical or chart nature that you think would bear upon the workability of the plan of separation of prosecuting and judicial functions as exemplified by the working of your office?

If you have any such charts, would you produce them?

If you do not have such charts, it is all right.

Mr. DENHAM. Senator, there are a few things—

Senator DONNELL. Perhaps you could tell us, Mr. Denham, generally, without going into charts, what your observation has been as to the workability and as to the efficiency of the plan of the separation of the judicial and the prosecuting functions as compared with the operation of the nonseparation of those functions under the Wagner Act?

Mr. DENHAM. Well, under the Wagner Act I was a trial examiner, and in that respect I was somewhat isolated from the operational work of the Board.

In a number of cases, however, that came to my attention either directly or indirectly, I could not help feeling that the Board, because it had been forcibly injected into the pretrial controversy that frequently surrounded some of these cases, was put into a position where it had to make some preliminary determinations as to merits and

facts. It had to prejudice, to a substantial extent, the merits of those cases.

I have particularly in mind the controversy that arose over the Oregon Shipbuilding Corp. and two or three other similar organizations that were operated by Mr. Kaiser during the war.

The Pacific coast operation of shipbuilding went way back to 1941. The structure was set up under the direction of President Roosevelt. A shipbuilding stabilization committee or commission was created. Negotiations were entered into with the Metal Trades Department of the A. F. of L. as the primary representative of labor on the Pacific coast.

A master agreement was agreed upon at a conference in San Francisco, I think it was, and it was made applicable to all the new ship construction, and to the repair yards, too, but primarily the new ship construction. I think there were two agreements.

As new yards came into existence, they came into the general pattern.

In the Oregon operations of the Kaiser Shipbuilding Corp., they spent a great deal of money and a great deal of time, used a great many man-hours in the construction of the yards. That was all done under a closed shop of the A. F. of L.

No question was raised, no objection raised to it; then, when they had gotten through with the construction of the yards, the question was raised: "Now, when do we start building boats and what about employment there?"

The company said, "Well, we have got to have some men." They were doing business with these unions. The first 65 or 70 men who were employed at the Oregon shipbuilding plant, which was the first one, were gathered, some from the boilermakers' union, some applied at the gates, some were members of any union that came in—got jobs, got permits from the boilermakers. Maybe they did not have permits.

They were pretty generally gathered from numerous sources but a charge was filed by the CIO against the Oregon Shipbuilding Corp. on the grounds of assisting the AFL, because when about 60 or 70 of these men had come there, and they commenced to get up steam toward this huge employment of some 85,000 persons, this master agreement was signed by the Oregon Shipbuilding Co.

The question was then raised as to whether the company had not assisted. If it had, there would be a violation of the law. A tremendous hullabaloo was kicked up over that thing, and for months it kicked around the Board, and I mean the offices of the Board members.

A number of efforts were made to settle it. The thing was hashed back and forth. A great deal of high blood pressure was evidenced. Some efforts were made by the CIO and the AFL to cut the United States in half jurisdictionally and let the AFL have one side and the CIO the other. It was a most fantastic set-up.

Finally, when nobody could get any place, it got to the point where John Frey, the head of the Metal Trades Division, and Bob Watt, who was the general counsel of the Board, could not sit in the same room without jumping, and it was decided to put the case to trial, and I was designated as the trial examiner.

About that time the Kaiser Co. attempted to get restraining orders against Dr. Millis and Jerry Reilly to restrain them from sitting on the

case, because they had already prejudged. The restraining orders were not granted. I went out to Portland, and they tried to stop me, because I was an agent of the Board, from proceeding as a trial examiner, on the theory all these things were going on.

Well, as a matter of fact, the case went on. A long hearing was held. I came back, and Dr. Millis asked me how it was going. After we had concluded the whole thing, I had dismissed the real material part of the case which had to go to the substance because it was not proved, and Dr. Millis said to me, by the way, after I got back—that was the thing that gave the famous Frey amendment to appropriations—Dr. Millis said, “Why, if I had known that the facts were as they were developed in your hearing, I never would have authorized the case, but the facts that came to me showed that there was this and this, which indicated there was a violation.”

Now, that is just an outstanding example of what can happen.

In the Times Publishing Co. case——

Senator DONNELL. Mr. Denham, may I interrupt to ask you this? Is it your observation that in that case or in the one you just mentioned, the Times Publishing case, or any other, do the facts indicate to your mind that the handling of a prosecution could be better done by the prosecution and the initial functions being combined in the same body, or by having them divided so that there is a prosecuting function in the hands of one organization and the judicial function in the hands of the other?

Mr. DENHAM. Senator Donnell, in the setting up of our Government structure we have an attorney. He receives the information or the complaints. He is responsible for making the presentments to the grand jury or giving information. He is the man who makes investigations. He determines whether the case should be prosecuted. He prosecutes it. He is an independent functionary. He does not have anything to do with the courts.

The court has no idea of what cases are coming before him until he gets up on the bench.

Senator DONNELL. I think it is sound and advisable and wise that there be such a division.

Mr. DENHAM. Very definitely a smart thing.

Senator DONNELL. Mr. Denham, unless you think it is necessary to go into the Times case——

Mr. DENHAM. Not necessarily.

Senator DONNELL. I took it that you were going to give a further illustration.

I would like to ask you briefly what were the facts in the International Typographical Union case. If Mr. Findling is more cognizant of the details of it, I have no objection to his answering it.

Senator TAFT. Mr. Chairman, what I would like, if it is agreeable with the Senator, is to have somebody tell us what happened consecutively so we have the story. Last night we had a lot of questions, but I never got what the consecutive story was or what was involved, and I wondered if that could be done briefly.

Mr. DENHAM. Now, let me carry on to a point which will possibly bring it to a point where you get into the actual case itself.

Shortly after the 22d of August 1947, a group of men in the newspaper and printing industry called upon me and said: “Mr. Denham, we are faced with a problem. The Taft-Hartley Act provides that

there should be no closed shop. We have every reason to believe that demands are going to be made upon us by the ITU for a closed shop and for a continuation of the contract as it has existed in the past. We simply want to let you know that that is in the wind and may come up."

Well, a note was made of it—was filed away. We did not forget it, but we had other things to think of from day to day and hour to hour.

Eventually, the question came to a point where it came very definitely to a head. First of all, the attorneys for the printing group were the first to become involved, because the Baltimore case came to a head very quickly and went to trial rather early in the history of the act. That involved the printing shops, and is not, as I understand it, particularly pertinent or material in the handling of the ITU case which at that time—first, was the injunction proceeding.

Then, the complaints began coming to us from the attorneys for the newspapers that these demands were being made, that the requirements of the law were being defied, that they were not paying attention to them, and at that stage charges were filed in Indianapolis at the headquarters of the ITU, in order that they might go forward, that they might dispose of the case within the area of the headquarters of the union.

Senator TAFT. You said charges were filed. Who filed the charges? What were the charges?

Mr. DENHAM. I would rather ask Mr. Findling or Mr. Johns to carry on with the details on that point. I was kept advised of the broad developments. The details were carried on by Mr. Johns and Mr. Findling.

Senator DONNELL. Could I ask Mr. Findling just a question or two preliminarily?

Now, this trouble that Mr. Denham was just about to go into and which he last referred to you or Mr. Johns was with respect to the activities of the International Typographical Union, A. F. of L. Is that correct?

Mr. FINDLING. Yes, sir.

Senator DONNELL. Is it not true that that organization has been the only organization, American Federation of Labor Union, which has been engaged in defiance of the Taft-Hartley Act on a national scale?

Senator HUMPHREY. What was the word the Senator used?

Senator DONNELL. Defiance.

Senator HUMPHREY. Defiance?

Senator DONNELL. Defiance of the Taft-Hartley Act, on a national scale.

The CHAIRMAN. Do you mean, Senator Donnell, that they actually opposed, defied the law?

Were they not trying to test the power—

Senator DONNELL. My understanding is they opposed the closed shop provision of the Taft-Hartley Act and were ultimately held to be in contempt of court for the action they took. I would like to develop the facts.

Mr. FINDLING. They certainly refused to accept the closed shop.

Senator DONNELL. I just wanted to ask you the initial question as to whether or not the International Typographical Union is the only major American Federation of Labor union which has engaged in defiance of the Taft-Hartley Act on a national scale.

Senator HUMPHREY. I object to your very definite statement of defiance.

Senator TAFT. Why do you not say "public refusal to abide by" some specific provision?

Senator DONNELL. All right; public refusal to abide by the closed shop provision of the Taft-Hartley Act.

Senator HUMPHREY. Wait a minute, I object to that.

The CHAIRMAN. If the Chairman can break in here——

Senator DONNELL. May I ask the witness this, then? I withdraw that question. I ask him this:

Would you tell us whether or not this International Typographical Union followed a course of conduct which was found by the court to amount to a refusal on the part of that union to abide by the closed-shop provisions of the National Labor Relations Act?

Mr. FINDLING. Yes; the court found probable cause that they had.

Senator HUMPHREY. Just a minute. Let us correct the record again. I do not want to interrupt, but let us not get something in that is not true.

There has been no judicial finding. Let me ask you this. Has there been a judicial finding as to the actual refusal to abide by the provisions of the Taft-Hartley Act?

Mr. FINDLING. Well, of course, if the Senator is referring to trial examiners' reports——

Senator HUMPHREY. I am referring to judicial review.

Mr. FINDLING. Only in the sense that in the subsequent contempt proceedings the court found by clear and convincing evidence that the union was continuing a course of conduct that constituted a violation of its previous decree. Of course, what the decree was insisting on was a closed shop——

Senator HUMPHREY. Which we went through last night, but there has been no actual judicial finding on the trial examiners' reports on particular cases, has there?

Mr. FINDLING. That is correct.

Senator HUMPHREY. In other words, we are still in the realm of probability.

Senator TAFT. Of what, Senator?

Senator HUMPHREY. I say we are still in the realm of probability; I mean probable cause.

Senator TAFT. I see.

Senator DONNELL. I do not think there is any difference between us on the contents of the decree of the court. As I read into the record, the court says:

The evidence indicates the probability of existence of the following facts.

Senator HUMPHREY. That is right.

Senator DONNELL. Whereupon the findings of facts are set forth.

Senator HUMPHREY. That is just to clear the record.

Senator NEELY. Senator Donnell, may I interrupt you?

Senator DONNELL. Certainly.

Senator NEELY. I note that you are asking about the closed-shop provision of the Taft-Hartley law. Do you not mean the open-shop provision?

Senator DONNELL. The prohibition against the closed shop is what I perhaps more accurately should have stated.



Now Mr. Findling, the act, the Taft-Hartley Act was passed on the 23d day of June 1947 by the Senate over the veto of the President. Is that correct?

Mr. FINDLING. Yes, sir.

Senator DONNELL. Had it been passed on the 20th of June 1947 by the House of Representatives over that veto?

Will you tell me whether or not in the course of your work with the general counsel's office, you learned that between the first day of July 1947, that is to say just 7 days after the passage of the bill over the veto of the President, that the International Typographical Union, between July 1, 1947, and the date of its annual convention in Cleveland in late August 1947, issued a series of postcard bulletins warning its locals not to sign contracts or to agree to anything without the approval of the International Typographical Union.

Mr. FINDLING. Yes, sir. May I make a suggestion. I would be happy to tell you whatever I remember, of course, about the facts. I think if you want a careful statement——

Senator DONNELL. Chronological?

Mr. FINDLING. A chronological statement, we would be glad to provide it in a memorandum. If the committee wants to ask us questions about that, we would be glad to answer them later, I am sure.

I would have to speak from memory, of course, unless I referred to the very documents that I would use in connection with the preparation of a memorandum.

Senator DONNELL. I have no objection to that, Mr. Chairman.

Senator HUMPHREY. Excellent.

Senator DONNELL. In fact, I would request the witness to furnish us with that chronological statement in as much detail as he is able to give it to us on actually what transpired, but I would like to ask——

Mr. FINDLING. Our version of the facts.

Senator HUMPHREY. Yes; and then we can ask the ITU to present their version.

Mr. FINDLING. They have briefs, I am sure.

Senator DONNELL. That is the organization of which Mr. Randolph is the president. That is correct, is it not?

Mr. FINDLING. Yes.

Senator DONNELL. Mr. Findling, without infringing on what you are going to give us, which you are going to give to us in detail, I would like to ask you whether or not a complaint was filed by the general counsel's office in connection with the Graphic Arts League employing printers of Baltimore.

Mr. FINDLING. I know that is so. Of course, I only handle the court litigation for the agency, but I know there was such charge filed.

Senator DONNELL. Yes, sir. Did you see any literature put out by the International Typographical Union to the general effect that the local unions should not enter into any contracts of employment with the employers? Did you see that?

Mr. FINDLING. The union took that position, I think, in August of 1947.

Senator DONNELL. Yes, sir; and you remember that the union, that is to say, the International Typographical Union, insisted that in lieu of any contract that should be signed there should be posted in the plants of the respective printers so-called conditions of employment. Is that a correct statement?

MR. FINDLING. I think that is true too. Again I am happy to answer the question, but I suggest the trial examiner's report as issued in the Graphic Arts case in which he sets forth the facts found. There you have got resolutions of credibility and so on, specific findings as to what occurred.

SENATOR DONNELL. Now will you include in this statement of facts that you are going to give us, a copy of such conditions of employment, so-called, as came to your attention or as came to the attention of the General Counsel's office.

Will you do that?

MR. FINDLING. Mr. Johns reminds me that in the injunction proceeding we filed a petition for an injunction attached to which were rather lengthy and detailed exhibits setting forth, I think, substantially all the information.

SENATOR DONNELL. I want to ask you this: Do you recall that subsequently Mr. Van Arkel, formerly general counsel of the National Labor Relations Board, was engaged to act as counsel for the International Typographical Union? Do you remember that?

MR. FINDLING. I know he represented them. I cannot say when he was retained.

SENATOR DONNELL. Do you recall that after the initial plan under which instead of a contract, so-called conditions of employment were to be posted in the plants, that there was adopted a plan by the International Typographical Union of a contract containing a 60-day cancellation clause? Do you remember that?

MR. FINDLING. I believe that during the hearings in the Baltimore case, the Graphic Arts case, we got information that the union had changed its position from a no contract, not making any contracts, to one of making contracts subject to cancellation on 60 days' notice.

SENATOR DONNELL. Cancellation by the union?

MR. FINDLING. By either party.

SENATOR DONNELL. Perhaps that is true.

MR. FINDLING. That is strictly from memory. I think that is in an exhibit, too.

SENATOR DONNELL. Yes, sir. Now do you recall whether or not the union employer section of the Printing Industry of America, Inc., filed a charge on behalf of printing employers in seven different cities, and that after investigation of some week's duration the general counsel's office issued a complaint? Do you recall that?

MR. FINDLING. I cannot say that I am aware on my own that there were seven. I know that several were filed. There may have been seven.

SENATOR DONNELL. Now while hearings were in progress on this case or cases, do you recall that strikes occurred and that ultimately the general counsel, Mr. Denham, sought an injunction under section 10 (j) in behalf of the newspapers which were parties to the case? You recall that?

MR. FINDLING. We sought an injunction in the case brought by the National Association of Newspapers and in connection with the application we had evidence and I think we proved that there were strikes in several cities. I have forgotten how many.

SENATOR TAFT. Now, wait a moment. Was this 10-day application an application to get a temporary injunction to force the ITU to bargain collectively?

What was the injunction sought for under 10 (j) ?

Mr. FINDLING. To require the union to discontinue its policy of refusing to negotiate with employers in the newspaper industry with a view to negotiating conventional contracts for the usual terms which the evidence showed was 1 year, normally.

Senator TAFT. What is that section, 8 (b) (4) ?

Mr. FINDLING. 8 (b) (4).

Senator TAFT. 8 (b) (3). This was an application claiming that the unions, because they took the position they would not talk any contract unless it had a closed-shop clause in it, was refusing to bargain collectively under 8 (b) (3). Is that it ?

Mr. FINDLING. Senator, I do not think we brought it under 8 (b) (3), because there was a technical problem presented with respect to the appropriate unit. We had a Nation-wide picture. We did not know whether the appropriate bargaining unit was the whole country or separate newspapers.

We avoided that because basic to the entire controversy was the question also of union insistence that employers discriminate in respect to their hiring practices so as to hire only union men, and so we brought it under 8 (b) (2), stop trying to compel employers to discriminate by refusing to enter into contracts for a reasonable term. We also brought it under 8 (b) (1), restraint and coercion of employees.

Of course the proceedings brought out that the charges filed with the regional offices included not only the sections to which I have made reference, but also other sections, one involving bogus, and so on.

Senator HUMPHREY. Involving what ?

Mr. FINDLING. Bogus, feather bedding, alleged feather bedding, and 8 (b) (1) (b), interference which the selection by the employers of representatives to handle grievances, but we did not bring—

Senator TAFT. What was the main one, 8 (b) (2) ?

Mr. FINDLING. That is right.

Senator TAFT. The union was attempting to cause the employer to discriminate against the employee who was not a member of the union.

Senator DONNELL. Also was not section 8 (b) (3) involved in that suit ?

Mr. FINDLING. I do not think so, for the reason I have mentioned. When we got into the particular cities where we could get a bargaining order we brought in the 8 (b) (3) allegation also.

Senator DONNELL. Now where was this suit that you speak of filed ?

Mr. FINDLING. In Indianapolis.

Senator DONNELL. This case was entitled "Jack G. Evans against International Typographical Union, et al." That is correct; isn't it ?

Mr. FINDLING. Yes, sir.

Senator DONNELL. Now, Mr. Findling, is it a fact that after the filing of this injunction suit there were hearings held from March 3 to 14, 1948 ?

Mr. FINDLING. I assume that is correct.

Senator DONNELL. If that is the recital in the court's decree, that is correct; is it not ?

Mr. FINDLING. That is correct; yes, sir.

Senator DONNELL. You recall, as I think you said last night, there were some 10 days of hearings, so it was not a case in which an injunction was issued merely on the filing of a few affidavits without hearings.

Mr. FINDLING. It was not.

Senator DONNELL. Were witnesses put on the stand and examined and cross-examined?

Mr. FINDLING. There were.

Senator DONNELL. And was documentary evidence presented in the case?

Mr. FINDLING. It was.

Senator DONNELL. Adequate opportunity, in your opinion, for the cross-examination of witnesses and the presentation of evidence afforded?

Mr. FINDLING. Yes, sir.

Senator DONNELL. And the court itself finally, on the 27th day of March 1948, according to the document I have in my hands, rendered its findings of fact, conclusions of law, and decree. Is that correct?

Mr. FINDLING. That is correct.

Senator DONNELL. And in the course of the findings of fact and conclusions of law the court said:

Hearings on the order to show cause were held from March 3 to 14, 1948. All parties were afforded full opportunity to be heard, examine and cross-examine witnesses, present evidence bearing on the issues, and to argue evidence and the law.

Is that a correct recital of what transpired?

Mr. FINDLING. I believe so; yes, sir.

Senator DONNELL. Now may I ask, in connection with the detail that you are going to present to us, that you file with us a certified copy of the finding of facts, conclusions of law, and decree of the court rendered on March 27, 1948.

Mr. FINDLING. Yes, sir.

Senator DONNELL. Then thereafter—

Mr. FINDLING. May I interrupt, Senator? Do you want a certified copy?

Senator DONNELL. A certified copy. This copy I have here appears in the American Newspaper Association's booklet, and it is not official.

Mr. FINDLING. Of course, we can get a certified copy. If the counsel for the ITU will stipulate as to the authenticity—

Senator DONNELL. If you will bring in here what you assure the committee is in your opinion a correct copy, that will suffice as far as I am concerned.

May I ask you whether, after the rendition of this decree, March 27, 1948, the general counsel's office became convinced that the International Typographical Union was refusing to abide by the terms of the decree of the court so rendered?

Mr. FINDLING. We had reports to that effect.

Senator DONNELL. Yes, sir; and was there thereupon filed, in the same court which had rendered the decree, a motion after appropriate pleading citing the defendants for contempt of court?

Mr. FINDLING. Yes, sir; in August I believe.

Senator DONNELL. August of 1948?

Senator HUMPHREY. 25th.

Senator DONNELL. And may I inquire if on the 14th of October 1948 there was rendered a decree adjudging the respondents in civil contempt and fixing the terms of punishment?

Mr. FINDLING. I assume that is correct.

Senator DONNELL. You are going to file with the committee what in your opinion is a correct copy of that document?

The CHAIRMAN. May I ask here for the record and for the purpose of the hearing how all these questions, all of this record can contribute in any way to writing a law?

Senator DONNELL. I think it will tend—

The CHAIRMAN. If you can state the point, why I will be perfectly happy to have it, but it seems to me that we are taking records from one department of Government and merely transferring them to another department of Government and not accomplishing the legislative purpose that we ought to be looking out for here.

Senator DONNELL. I think, Mr. Chairman, that it will show, first—rather, this evidence together with other evidence that we have already had will show—that the International Typographical Union was the only union, the only national union, major national union of the A. F. of L. which was engaged in any refusal to abide by the Taft-Hartley Act.

The CHAIRMAN. That is in regard to the closed shop?

Senator DONNELL. Yes; in regard to the closed shop.

The CHAIRMAN. Has not that already been admitted?

Senator DONNELL. I think it is well to show the facts here and show what the Typographical Union did in its conduct.

Senator TAFT. May I suggest there are a number of reasons. One is that the Senator from Minnesota, I thought, was attempting to discredit the testimony of the witness on the ground that in this case he had taken a prejudiced position.

In the second place, I am sure that the distinguished Senator from Minnesota and others will want to show that this case shows that we ought not to prohibit the closed shop.

Senator HUMPHREY. No, Senator, I would like to say the purpose of my interrogation was answered last night by Mr. Findling at the conclusion of my questioning, simply that the procedure which has been followed under the Taft-Hartley Act in this ITU case is one which permits the injunction—the injunctive process—to be used over a long period of time, which, without any settlement of the basic issues in the case either by the Board or by a court, ultimately ended up in the contempt proceeding which put heavy penalties and heavy damages upon the union, or could put them, and at the same time you have no decision as to the case.

I am merely saying that this does not promote collective bargaining. I merely say this just promotes legal action, and to me that is one of the fine points that I would like to bring out about Taft-Hartley; that it does not promote collective bargaining; that it promotes legal action.

Senator TAFT. In other words, the Senator is saying the very thing I was going to say. It bears on the question of the advisability of continuing the power of temporary injunction or not.

Senator HUMPHREY. That is right.

Senator TAFT. I think the thing is material, Senator. Mr. Randolph, I am afraid, is going to testify further on the same subject.

The CHAIRMAN. It is material now in my mind, but it seems to me that you are going about it as long around as we can possibly go.

Senator DONNELL. I think the only way to get it in correctly is to have the actual documents rather than someone's conclusions about it,

and I think the recital of facts plus these documents will give us a very good picture of it.

The final document which I should like to have you insert in the record, if you will, Mr. Findling, is the so-called statement of compliance with the decree which was filed by the defendants.

Now, Mr. Denham, returning to the testimony—Senator Morse is out right now, I am sorry to say. I will wait a moment. Perhaps he will come in. I will pass to another point in a moment.

Senator HUMPHREY. Senator, on the basis of your submitting these documents for the record—with which I concur, as long as we are trying to act as a court here—I would like to submit a copy of a letter which has been presented to me by Van Arkel & Kaiser, a letter submitted to the National Labor Relations Board, Mr. Frank N. Kleiler, executive secretary, as of February 24, 1948. I think it will tie right in with your documentation. It poses the question as to when we will have settlement of the matters involved in the case.

The CHAIRMAN. It will appear in the record.

Senator DONNELL. No objection, Senator Humphrey.

(The letter referred to is as follows:)

VAN ARKEL & KAISER,  
*Washington 6, D. C., February 24, 1948.*

NATIONAL LABOR RELATIONS BOARD,

*815 Connecticut Avenue NW., Washington, D. C.*

GENTLEMEN: To date, the general counsel of the Board has issued nine complaints against the International Typographical Union and certain of its locals. Each of these cases is concerned with but one central issue: namely, whether the collective-bargaining policy adopted by the union at its August 1947 convention and the subsequent execution of that policy is valid under the act.

During October and November, the international union and its Baltimore local fully litigated the validity of that issue in case No. 5-CB-1. That case was finally submitted to the trial examiner by briefs on December 15, 1947, and is now awaiting decision. Despite the full litigation of the issue in the Baltimore case, a complaint issued in November against the international union and its Nassau County local, No. 915, in case No. 2-CB-14. The issues in that case have now been fully litigated and the matter is pending before a trial examiner. Subsequently, on November 21, 1947, a complaint was issued in case No. 9-CB-5 against the international union and its executive council. This case went to hearing in November; with this has been consolidated a complaint in case No. 13-CB-6 against the international union and Chicago local, No. 16. On January 21, 1948, counsel for the respondents made an offer (which was rejected by the representatives of the general counsel) which would have allowed an expeditious determination of the matters covered by the complaint in case No. 13-CB-6 against the Chicago local. The principal case, which throws into issue the conduct of all local unions in the entire United States, is now also in litigation.

In addition, a complaint has been issued in case 2-CB-30 involving the international union and New York Typographical Union, No. 6; Chicago Typographical Union, No. 16; Detroit Typographical Union No. 18; Detroit Mailers Union No. 40, and Pittsburgh Typographical Union No. 7 with which have been consolidated complaints in case No. 4-CB-12 involving the international and Philadelphia Typographical Union No. 2, and St. Louis Typographical Union No. 8, and Newark Typographical Union, No. 103, captioned as case No. 2-CB-39. Hearing in that case has also opened.

In all important respects the complaints which have issued have been identical. This union has twice litigated the validity of the policy adopted at the convention and is in the process of doing it a third and fourth time. Two cases have been heard involving charges that local unions have refused to bargain collectively within the meaning of the act, and a third case involving similar charges against the Chicago local union has been substantially concluded. The cases which were selected to go to hearing were chosen by the office of the general counsel and not by the respondents; presumably, they reflect the strongest cases available to the general counsel.

Any rational administration of the statute would have required the general counsel to issue no more complaints, once the Baltimore matter had been heard, until the issues in that case had been authoritatively disposed of. Nevertheless, in three hearings since that time, we are being compelled to litigate substantially identical issues on evidence little different from that available to the general counsel during the course of the Baltimore hearing. While it is our strong feeling that none of these cases raises issues sufficiently doubtful to have warranted any hearing, we feel that we should not be repeatedly required to proceed to litigate identical issues involving identical testimony. Hearings before the Board are expensive, and the number of complaints issued by the general counsel, with no new or different evidence available to him, make it clear to us that we face a deliberate effort by excessive litigation to deprive this union of any fair opportunity to test the validity of its position.

The issues which are presented by the complaint in case No. 2-CB-30 (and the complaints which have been consolidated with it for hearing) are no different from the complaints which have been previously issued and heard, as a practical matter, the issues which have been litigated will either dispose completely of the allegations of the complaint in that case or will so change its posture as to make separate hearing on the issues in that case at this time completely wasteful.

We therefore proposed to the general counsel, on behalf of the international union and the local unions involved in that proceeding (case No. 2-CB-30), that we will agree to be bound by the results of any one or all (or any combination which the general counsel might select) of the cases which have thus far been litigated: namely, case 5-CB-1 (Baltimore); case 2-CB-4 (Nassau County), or cases 9-CB-5 and 13-CB-6 (Cincinnati and Chicago). The issues in the cases which have been tried, we repeat, will be decisive of the issues in case No. 2-CB-30 and the cases consolidated with it. This proposal he rejected.

In the alternative, we proposed to the general counsel (in the event he feels that case 2-CB-30 and its companion cases present a stronger case than case 9-CB-5) that proceedings in the latter case be discontinued in order to proceed with case 2-CB-30. This proposal he also rejected.

We do not feel it comports with decent standards of administrative action that public officials should use the powers vested in them to harass private parties by needless litigation concerning matters already thoroughly inquired into. Due process can be denied quite as effectively by requiring 365 days in court as by denial of a day in court. The offer which we have made is entirely reasonable, and will insure a disposition of case No. 2-CB-30 more promptly than would be reached in normal course by allowing the hearing to continue. We have repeatedly made it clear that we are entirely willing to cooperate in the reaching of a decision on these matters by the competent tribunals, and feel that we have done so. We believe our course of conduct has been lawful, and it is emphatically not the province of the general counsel to assume the contrary until there has been a decision by the competent tribunals.

In the circumstances, we feel that we cannot cooperate further in proceedings in case No. 2-CB-30 and the cases consolidated with it for hearing, or on any further complaints which may issue raising identical issues with those already litigated, until there has been an authoritative decision of the cases which we have thus far litigated. A contrary position would amount to acceding to a course of persecution which we feel to be completely unjustified, and wasteful of both Government and respondents' funds. We have not asked dismissal of that case, but merely that it be held in abeyance pending decision of the matters now pending before trial examiners of the Board.

We are communicating these facts to you at this time in order to make clear our position that, by withdrawing from this hearing, we are taking the only course open to us to avoid unjustified litigation. Emphatically, we intend no disrespect to the Board or the trial examiner in this matter. It is a step which we take reluctantly in circumstances in which we have no alternative.

Very truly yours,

GERHARD P. VAN ARKEL.  
HENRY KAISER.

Senator DONNELL. Now, Mr. Denham, I will pass to this question, that is, have you examined that portion of the Labor-Management Relations Report, the Joint Committee on Labor-Management Relations filed December 31, 1948, in the Senate which refers, beginning

at page 22, to the statement as to what injunctions have been issued, and generally speaking the facts at issue, that is to say whether it was in the public interest or some other factor involved, the action taken and the violation charged.

Have you examined that portion of the report?

Mr. DENHAM. I have examined the entire report, Senator. I will have to stop and take another look at what you are referring to. This is page 28?

Senator DONNELL. Page 22, I thought, down to and including page 28.

Mr. DENHAM. I have it in my hand at the moment.

Senator DONNELL. The question I desire to ask you is whether or not you have known of any omissions or inaccuracies in the statements of fact set forth in that portion of the report, namely, the portion setting forth what has happened in the issuance of the injunctions?

Mr. DENHAM. Mr. Johns tells me that he thinks there is one place where there could be a correction.

Senator DONNELL. Would you point that out for us?

Mr. DENHAM. There are no material inaccuracies at all. There is one question which occurred to Mr. Johns which has no materiality.

Senator DONNELL. Very well, so that so far as you know there is no material error or omission in that section of the Labor-Management Relations Report referred to which has to do with injunctions?

Mr. DENHAM. That, of course, deals with two subsections, injunctions applied for under the provisions of section 10 (j).

Senator DONNELL. And also 10 (l).

Mr. DENHAM. There were six such applications, and—

Senator DONNELL. Well, it refers to injunctions under section 10 (j), section 10 (l) and injunctions under section 210, namely, the national emergency provisions. I say you know of no material—

Mr. DENHAM. I have a current memorandum on that which goes into much the same material, but brings the situation right up to February 1 with reference to all injunction proceedings.

Senator DONNELL. If there is any error or omission which is found in this injunction portion of the report of the committee filed December 31, 1948, would you be kind enough to file a statement of what those errors are?

Mr. DENHAM. They are not errors. They are simply supplements covering matters that have transpired since.

Senator DONNELL. Would you mind filing that with our committee, too, Mr. Denham?

Mr. DENHAM. I will be very glad to, Senator.

Senator TAFT. Does that contain a few more facts than there are in the joint committee report, or fewer facts?

Mr. DENHAM. Well, not a great deal more. They are very, very sketchy and this was prepared for our interoffice use, so we know what they are mostly all about.

Senator TAFT. How about the photostat? Does that contain more?

Mr. DENHAM. Yes, sir. You will have that. It is a rather enlarged statement of what the facts are.

Senator TAFT. That is all I want.

Mr. DENHAM. And that other exhibit is now being duplicated and will be with you promptly.



Senator DONNELL. Mr. Denham, I have only two other points that I desire to call your attention to. One of them I should like to take up at this moment, but I really prefer that Senator Morse be here because it relates to a comment which he made. I am going to proceed briefly with the other point, if I may.

In the Wagner Act, section 13 reads as follows:

Nothing in this act shall be construed so as to interfere with or impede or diminish in any way the right to strike.

The Taft-Hartley Act and corresponding provision reads:

Nothing in this act, except as specifically provided for herein, shall be construed so as to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.

The point to which I address your attention and would like to have your comments is this: In your judgment is it correct to insert, as the Taft-Hartley Act has, a reference to the limitations or qualifications on the right of striking, or is there a right to strike without any limitations or qualifications?

Mr. DENHAM. Well, you take the provisions of section 8 (b) (4), for instance, and I think that unless you had some such provision as the one that you have appended in the Taft-Hartley Act, you are bound to run into a very inconsistent statement. I think that one ties into the other.

Senator DONNELL. Well, here is what I wanted to get at, Mr. Denham. The Taft-Hartley Act distinctly recognizes in what I read to you the fact that there are limitations and qualifications on the right to strike.

Now, I mentioned in the course of the testimony of one of the preceding witnesses—I believe it was Mr. Tobin, possibly someone else—the fact that Mr. Justice Brandeis in the case of *Dorchey v. Kansas* (272 U. S. 6), says neither the common law nor the fourteenth amendment confers the absolute right to strike. Do you concur with that observation of the Court?

Mr. DENHAM. Very definitely.

Senator DONNELL. Mr. Mason, writing in the *University of Pennsylvania Law Review*, November 1928, says this, referring to the quotation, I think, from Justice Brandeis which I have read:

The Court's concise statement simply makes it clear that the common law sets limits on the right to strike and suggests that State legislatures are not without authority to prescribe certain restrictions within the bounds of the fourteenth amendment.

Do you agree with that statement of Mr. Mason?

Mr. DENHAM. In the main, yes, sir. I should like to study it more at leisure, sir, in view of the language used. I am familiar with Justice Brandeis' statement. I have no qualifications about that.

Senator DONNELL. At any rate, on the question as to whether the common law, either the common law or the fourteenth amendment to the Constitution of the United States confer the absolute right to strike, you are in harmony with the view neither the common law nor the fourteenth amendment confers such absolute right?

Mr. DENHAM. No, sir; as an absolute right I do not think it exists.

Senator DONNELL. Now I also quote from, I think it was in connection with Mr. Tobin's testimony, a message by telegraph from President Coolidge on the 14th of September 1919 to Samuel Gompers

which was suggested by the chairman of our committee as perhaps not dealing with law but a matter of public policy.

Mr. Coolidge said this. He was at that time the Governor of Massachusetts, as I recall. He said:

There is no right to strike—

I think that is correct—

against the public safety by anybody at any time anywhere.

Do you agree with that as a matter of law?

Mr. DENHAM. Well, that becomes an infringement upon the police powers of the State. All our rights must be subject to the right of the State to maintain police protection for the welfare of the State.

Senator DONNELL. Now, Mr. Denham, I want to say to Senator Morse, I deferred the final question on one point until he was present here. He had left the room for a few minutes.

There was some mention made the other evening, quite graphically, about an injunction requiring men to go down into the bowels of the earth, and Senator Taft pointed out that the Taft-Hartley Act does not require anybody to go down into the bowels of the earth if it is dangerous so to do, and I think he was referring to section 502 of the act, the Taft-Hartley Act, which says:

Nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

I want to address my inquiry to the earlier portion of that section 502, Mr. Denham. Let me ask you if you agree with this view or not.

Is it true that an injunction, the injunction granted in the coal miners' case or any other injunction, so far as you know in these labor cases, does not in any instances if granted under the Taft-Hartley Act, compel the miners individually to take any action whatsoever, and that such an injunction merely restrains the leaders of the employees from taking action to prevent the man from working if the man chooses to work?

Mr. DENHAM. The injunctions are applied against the organization and not the individual members of them.

Senator DONNELL. The injunction merely restrains the leaders from doing anything to effectuate any such action?

Mr. DENHAM. Yes, sir.

Senator DONNELL. The Taft-Hartley Act says in 502:

Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act, nor shall any court issue any process to compel the performance by an individual employee of such labor or service without his consent.

There is the language of the act, and do you think it means what it says?

Mr. DENHAM. That is in conformity with the involuntary servitude provision of the Constitution.

Senator MORSE. Have you finished your examination on that point?

Senator DONNELL. I will yield to the Senator for an inquiry.

Senator MORSE. I would like to examine the witness on how realistic his answer is.

Senator TAFT. I bring out one point, first. The Wagner Act contained no such provision as that, did it, Mr. Denham?

Mr. DENHAM. I do not recall that it did.

Senator TAFT. Relating to the individual, so that if we repeal the Taft-Hartley law, we eliminate that provision from the law.

Mr. DENHAM. I do not recall.

Senator DOUGLAS. There were no injunction features in the Wagner Act. It is the Taft-Hartley law that introduced the injunction features.

Senator DONNELL. I would like to say for the record there is no provision in the Wagner Act reading either identically or to the same effect as section 502 of the Taft-Hartley Act.

Senator PEPPER. Did the Senator yield to the Senator from Oregon?

Senator DONNELL. Yes, sir. I yielded for an inquiry, but I have no objection to the Senator asking questions if he keeps them within reasonable limits.

Senator MORSE. I have just a few questions along the lines of the Senator's questions, so I will present through the questioner what I think is a modification of the witness' testimony.

My first question is this: Mr. Denham, you testified that the injunctive procedures of the Taft-Hartley Act are applied against the officers of the union, not the men. That is your testimony, is it not?

Mr. DENHAM. Against the organization and its officers; yes, sir. I think the language that I used was that it is directed to the organizations and not to the individual members.

Senator MORSE. Taking coal, suppose one of the issues between the officers of the union who are bargaining for the men and the coal operators is the question of the working conditions that they allege are dangerous to life and limb, and suppose that the officers of that union are so convinced that those working conditions are dangerous to life and limb that they refuse to advise the men to go to work and the men strike.

Do you question the fact that so long as those union officers refuse to advise the men to go to work, that as a general practice those coal miners are not going to go to work?

Mr. DENHAM. There is no question they are not going to go to work.

Senator MORSE. And is it not true, therefore, that unless those union officers order those men to go down into the bowels of the earth to mine coal under conditions that in their honest belief are dangerous to life and limb, that those officers at least have the choice of issuing such an order against their men or going to jail for contempt or being fined?

Mr. DENHAM. Now, Senator, what is the predicate upon which all this is laid? The existence of an injunction or something of that sort?

Senator MORSE. Let me repeat the question. Assuming that your answer is correct, and I think it is, that in these coal cases, for example, until the union officers order their men to work in the case of a strike, they are just not going to work.

Mr. DENHAM. Yes; but first get your injunction. There must be a reason for that in the first instance.

Senator MORSE. I will get to that in a minute, if you will let me conduct my own examination. I just want to see what premises we can agree on. Are we in agreement in actual practice as found in the coal industry—and I think it will continue for some time—the men will never go to work unless their leaders tell them to go to work?

MR. DENHAM. I don't think there is any question about that.

SENATOR MORSE. In the case of a coal controversy if an injunction is issued because of a refusal of the union officers to order the men to work, does not that put those officers in a position of either ordering their men into the bowels of the earth, so to speak, to mine coal under conditions which the union men and officers believe are unsafe or go to jail for contempt or be fined?

MR. DENHAM. Senator, I seriously doubt if any person administering any of these laws or any court would seriously consider an injunction where there was a dispute upon the question of the safety of a mine jeopardizing the men, the miners themselves.

SENATOR MORSE. Exactly, one of the issues in the recent coal dispute, one of the allegations of the union, was that one of the things that had to be improved was safety in the mines.

Let me show how dangerous I think it is to leave to the court such discretion as the Taft-Hartley law leaves to the court. Take the Illinois case. We even had in Illinois a situation where State officials supposedly had approved the working conditions in the mine, in the very face of protests from the union, with subsequent tremendous loss of life. The point I want to make is that when you leave these questions of safety to men who don't have to put on overalls and get in there and risk their necks, you are giving them a discretion I don't want to give to them. I would much rather take the point of view of men who have to work in those conditions as to whether or not they are in fact unsafe.

There is only one question, it seems to me, as to whether or not the allegation is made in good faith.

MR. DENHAM. That, of course, is fundamental.

SENATOR MORSE. That is fundamental, but I tell you one of my fears of this injunctive process under the Taft-Hartley law is that we are giving a discretion to men who do not have to risk their necks to determine whether or not the union officials should be required to order these men into the mines or else go to jail for contempt, and that will never be done with my vote.

SENATOR TAFT. As I understand it, the court may say: "I don't think these conditions are bad, but I think the men in good faith think they are." If that were the case, he could not issue the injunction under the Taft-Hartley Act.

SENATOR MORSE. That is correct.

MR. DENHAM. To go back to section 502, Senator, that Senator Donnell just read—

SENATOR MORSE. Permit me to reply to Senator Taft first. My difference with the Senator from Ohio is: I don't propose to agree to a provision where I let a man who does not have to run the risk, exercise the discretion as to whether or not they are in fact in danger of their lives. That is what you add up to when you follow the procedure.

MR. DENHAM. That is quite true, but section 502 places, as I read it, in the hands of the man who is going down into the bowels of the earth, the privilege of saying, "I am not going to do it, because it is abnormally dangerous."

SENATOR MORSE. But you are overlooking, it seems to me, what has been demonstrated in the coal industry time and time again, and that is their union unity is so great that they are even willing sometimes in order to protect their leader to continue to risk their necks; but I

say that in a cooling-off period our Government should not follow a course of action where in fact they require continuation of work for the private dollars of the private coal operators, require the men to go down into those mines, in fact, and mine coal for the operators, and it will never be done with my vote.

Senator DONNELL. There is no provision in the Taft-Hartley Act that authorizes any court, is there, to require a man to go down into the bowels of the earth and work if he does not want to?

Mr. DENHAM. As I gather, under section 502, he is specifically exempted from doing so.

Senator DONNELL. And not only one man but a thousand or 10,000 men, if they think they should not go down; there is nothing in the Taft-Hartley Act that makes them subject to contempt or any other penalty for their refusal to do so; is that correct?

Mr. DENHAM. Nothing in the Taft-Hartley Act at all. I think we are dealing with the subject of the peculiar structure of definitely one labor organization in which, as one of our judges said, a wink or a nod or something else can be the signal. We know that the miners will follow those signals.

Senator TAFT. You think the President's inherent powers would enable him to order them into a mine that was not safe, Mr. Denham?

Senator DONNELL. Inherent powers, if any.

Senator MORSE. I would like to say, Mr. Denham, just because the Senator from Ohio and I agree on the matter of lack of inherent powers, it does not follow ipso facto that we are going to agree to give any power to a judge to put the men in the position where they either have to obey the order of their mine leader to go into the mines in the case of unsafe conditions or put him in a position where he has to go to jail if he does not issue such an order.

We have got to deal here again, may I say—and then I assure my friend from Missouri I will quit and say nothing further on his time—but here again we have to keep in mind the differences between legalistic formulas and the dynamic human factors that characterize relations between employers and workers, and when the law sets up something that I think is as artificial as, in this case the injunction would be, you are not helping labor conditions, you are creating labor problems.

Mr. DENHAM. Senator Morse, in administering a law which deals with human relations as intimately as any labor-management relations law does, you must administer it with a sympathetic combination of law and human understanding or you are just never going to get anywhere, but you can't eliminate all of either one and accomplish anything.

Senator DONNELL. At any rate, there is nothing, so far as you know, in the Taft-Hartley Act which compels men—or I might paraphrase it to say that makes men slaves and requires them to go down into the bowels of the earth at the order of some court?

Mr. DENHAM. I spent 18 months trying to find where that slave-labor term comes from, and I have not succeeded in finding anything in the act to justify it.

Senator DONNELL. But you could find it in 315 publications of the labor unions and in the remarks of numerous political campaigners who have gone over the country, including the distinguished minority

whip. Senator Francis Myers, of Pennsylvania, who a few nights ago announced over the radio in a Nation-wide broadcast that the Taft-Hartley Act shackles labor. You have heard things of that kind?

Mr. DENHAM. I have heard many accusations thrown at the Taft-Hartley Act, all are generalities, and I have yet to find anyone who has been able to put his finger on a single section of the law and say, "That section has injured labor unjustly," or "It has done something to labor which labor did not have coming to it."

When I say that, I am going back now to the statement I made yesterday that labor is a huge mass, the tremendous portion of which does not need any regulation at all. There are some of those on the periphery, on the outside edge of that mass, who, like the people on the outside of our society, need regulation. Those may have been affected by the Taft-Hartley Act.

Senator NEELY. Will the Senator yield?

Senator DONNELL. Yes.

Senator NEELY. I want to inquire about Senator Donnell's reference to the shackling of labor and ask my highly esteemed, distinguished friend from Oregon, Senator Morse, if I am right in believing that he, in one or more excellent speeches from which I quoted freely in my recent campaign, charged that the Taft-Hartley Act shackles labor?

Senator MORSE. I am sure I must have, because it does.

Senator NEELY. I am glad to have that expert testimony to corroborate the Democratic Senator from Pennsylvania to whom Senator Donnell referred.

Senator DONNELL. I take it you are not going to run Senator Morse on the Republican ticket for President like these other two gentlemen.

Senator NEELY. If I should nominate the able Senator from Oregon for President, my nominating speech would be made in a Democratic committee.

Senator MORSE. The witness is certainly entitled to his opinion as to the effect of the Taft-Hartley law, and I respect his opinion, but I am entitled to my opinion as to his opinion and I wish to say I am simply aghast if the general counsel under this act has not found in his experience under the act the provisions of the Taft-Hartley Act that do great injury to the legitimate rights of labor.

Senator DONNELL. You have not so found?

Mr. DENHAM. I might want to modify the one thing which would be in line with my prior comment with reference to the closed-shop or the union-shop provisions. I do think labor is entitled to more union security than the act gives it. That is the only concession I will make to that statement.

Senator DONNELL. But you do object to the closed shop and favor the provision of the Taft-Hartley Act which prohibits a closed shop?

Mr. DENHAM. Yes, sir.

Senator DONNELL. I have received various communications, and I have no doubt other Senators have, particularly from the hotel industry, the senders of which communications by telegraph and letters want to know whether they are or are not under the Taft-Hartley Act.

Do you think it is advisable that it be made clearer in the law than it today is, whether or not such industry as the hotel industry is included within the Taft-Hartley Act?

I could, of course, ask about other industries like laundries, et cetera, but I am confining for the moment my question to the hotel industry.

MR. DENHAM. I don't think we can confine that thought to any one industry as an industry.

Senator DONNELL. Do you think some generalization should be made which would be clearer than what we have? Is that correct?

MR. DENHAM. The Congress in laying out the area of jurisdiction of the agency and of the application of the act has used the term or has applied it to industries which "affect commerce."

The Supreme Court has defined that term on a number of occasions and has set it up as the broadest possible description of the exercise of the commerce power by Congress under the Constitution.

With those decisions before us—and I may be becoming legalistic here, Senator Morse—but with those decisions before us, I lay out a very broad area of statutory jurisdiction. In fact, there are not many businesses that do not, to some degree affect commerce.

There are some which affect it so little that they fall into the area of de minimis and with those we should not concern ourselves. But where the conduct of a business affects commerce, whether it be a hotel business or a grocery business or a bakery or anything else of that sort, it is my thought that the industry, the employees of the industry, the labor organizations doing business with that industry on behalf of its employees are all entitled to all the privileges of the law, and they are all entitled to be expected to carry the responsibilities which the law imposes on the citizens of the United States who come within that area.

Now it is a general answer, sir, it applies to hotels and it applies to bakeries.

Senator DONNELL. Thank you, Mr. Denham.

Senator HILL. May I ask a question?

Senator DONNELL. Yes.

Senator HILL. As I understand it, Mr. Denham, you stated you are in favor of the prohibition in the Taft-Hartley law against the closed shops; is that correct?

MR. DENHAM. Against the closed shop, yes.

Senator HILL. Then, as I understood it, in reply to a question from Senator Morse, you stated however, that you thought labor was entitled to more union security than now accorded it by the Taft-Hartley law.

MR. DENHAM. Yes, sir.

Senator HILL. Would you amplify that statement?

MR. DENHAM. I went into that at some length, I think it was last night, Senator Hill, but I will be glad to repeat it.

Anyone hearing my speeches or reading them during the past 15 months can hardly help gathering from them that I am not entirely pleased with the limitations placed upon union security in the present law, which makes those provisions nothing more than a medium for taking contributions away from the employees of so much per month and putting them in the treasury of the union, and that is all.

I felt that the unions, if they are going to have any security at all, should have a certain degree of control over their membership. They should have the power within reasonable limitations within the course prescribed to discipline their membership, to expect them to adhere to

the rules and regulations of unionism and union membership. They should be permitted, for instance, if a highly undesirable individual—and when I say highly undesirable I am taking someone who is an agitator or Communist or someone who is attempting to sabotage the affairs of the organization or the company—appears in their ranks and they discover it, they should have the privilege of getting rid of that person. They should not be compelled to work with him, but when they make up their rules, there are rules of reason and should be rules of reason. There should not be arbitrary and capricious rules and they should not be allowed to deprive a man of his livelihood by anything which is beyond reasonable cause under all circumstances.

So it was my suggestion last night that if there is going to be anything on this subject, rather than have the closed shop, which has many features that in the old days were good but which in the development of later days are not as essential, we should get rid of the closed shop, we certainly should ban the closed union, should permit our employers freedom in selecting in the first instance the people they will have on their pay roll.

Then if the employer wants to and the union desires it and can get together, then they can set up a union-shop provision, which has all of the traditional features of the union-shop provision, plus an assumption by the union of responsibility for the justness of the ground on which it suspends or expels a man and causes him to lose his job.

That is the best exposition of my views on that.

Senator HILL. You wouldn't make the union subject to the approval of the employer in a matter of that kind, would you? You wouldn't make those rules and regulations subject to the approval of the employer, would you?

Mr. DENHAM. No. I might say, Senator, I haven't attempted to set out any of this material in detail. I have got it fairly well in my mind as to what the broad over-all objective should be, but just exactly how it should be accomplished takes more time than I have given it.

Senator TAFT. Do you think of any possible method except to provide that the board would have the right to determine whether the restrictions for admission and the rules for expulsion were reasonable, and some principles which could be written?

Mr. DENHAM. Whether they had been adhered to.

Senator TAFT. We had, for instance, the case, and I remember it clearly, of the man who was fired from the union simply because he testified to what he saw; namely, he had seen a shop steward attack a foreman and so testified.

So he was fired from the union.

Can you think of any way in which you can adopt the general theory you have except by giving the board some power or giving a man who is so fired some access to the board to get redress?

Mr. DENHAM. That is the procedure.

Senator TAFT. You don't think that the remedy of going to court, which was referred to by some witnesses, would be adequate?

Mr. DENHAM. No.

Senator TAFT. The court is bound by the rules, no matter how unreasonable; is that correct?

Mr. DENHAM. I think the program should be handled either by sending him to the board, or as I used the example yesterday, in a single



contract in which that provision has prevailed, resorting to an arbitrator.

Senator DONNELL. Mr. Chairman, may I have the record show, inasmuch as I am leaving the city on the 6:30 train today on account of the Lincoln Day meetings in our State, I shall leave the committee at this time and return on Monday morning.

The CHAIRMAN. You have the blessings of the whole committee.

Senator PEPPER. Will the distinguished Senator and my good friend from Missouri, before he leaves, read about what Lincoln said about labor and labor unions and will he include that in his speech?

Senator DONNELL. I thank the Senator for his suggestion. I hope the Senator will come to the meetings.

Senator TAFT. Both the Senator from Missouri and myself fully agree with Mr. Lincoln.

Mr. DENHAM. That is my point on that one subject, Senator.

Senator HILL. The union is in a position where they cannot get rid of a man unless he fails to pay his dues.

Under the Taft-Hartley Act no matter how noncooperative or recalcitrant he may be, no matter how much of a saboteur he may be of the union and its policies and programs, the union cannot get rid of him except if he fails to pay his dues; is that right?

Mr. DENHAM. The union may get rid of him but they can't get him out of the plant. They have to keep on working with him. That is it.

The CHAIRMAN. Senator Morse, I think you asked to follow Senator Donnell.

Senator MORSE. No; I haven't started, but I will take my turn.

The CHAIRMAN. I thought we were all through.

Senator PEPPER. I want to ask some questions.

The CHAIRMAN. All right, Senator Pepper.

Mr. DENHAM. Senator Pepper, may I ask your indulgence. I have some material here, some information that Senator Humphrey asked me to obtain for him. You may recall that I mentioned the bartenders' case out in California.

Senator HUMPHREY. Yes.

Mr. DENHAM. I have my file on that here and I find that that was a case docketed as No. 20-C-B-34, and the respondent is the Bartenders Local Union No. 52 of the A. F. of L.

The complaint has issued in it and the case has been set down for a hearing. As a matter of fact, it was originally set down for hearing for today. The chief witness is running a laundry on an Army transport which was last heard from in Shanghai, and they don't expect to get back for about 6 months.

Senator HILL. Could the witness have been shanghaied?

Mr. DENHAM. He seems to have been, sir.

The CHAIRMAN. Senator Pepper.

Senator PEPPER. Mr. Denham, I was not quite clear about what you said about the power under the use of the injunction provided for in the Taft-Hartley Act to make men work. Did you say that the power does exist or does not exist?

Mr. DENHAM. I don't think it exists.

Senator PEPPER. The power to make men work.

Mr. DENHAM. I am speaking now, Senator, of the 10 (l) and 10 (j) and 10 (k) injunctions, not the public welfare and health matter.

Senator PEPPER. I didn't know whether you included that in that generalization or not.

Mr. DENHAM. No, sir.

Senator MORSE. Would the Senator from Florida take a suggestion from the Senator from Oregon, as he sometimes does, and put the section to which the general counsel now refers into the record and ask him a question in regard to how the injunctive process under the emergency section of the bill works in requiring men to work if it does so work?

Senator PEPPER. I thank you, Senator, for the suggestion. That is what I was coming to.

Senator MORSE. Pardon me.

Senator PEPPER. I was interested to know whether or not in the coal-mine case the injunction made the men go to work to produce coal.

Senator TAFT. May I ask a question, Mr. Denham?

I do not understand your answer. The restrictive provisions of the Taft-Hartley Act apply to all types of injunctions.

Mr. DENHAM. Section 502, I think, protects all of them.

Senator PEPPER. You mean you cannot make anybody work under the injunctive power of the Taft-Hartley law?

Mr. DENHAM. Where the conditions are—

Senator TAFT. Or at all, as far as that is concerned.

Senator PEPPER. You mean regarding it as dangerous to his safety?

Mr. DENHAM. Yes. Let me get section 502. In my opinion the Taft-Hartley Act provides no provision for compelling individuals to work.

Senator PEPPER. How are you going to protect the Nation then, under the Taft-Hartley law by making men continue to mine coal if they threaten to stop work?

Mr. DENHAM. You direct your injunction to the organization of those men and their officers, expecting that they will take the necessary action. If they don't do it, then you have to order the men back to work.

That is what happened when Mr. Lewis was so heavily fined.

Senator PEPPER. You say the first thing to do is order the leaders to order the men back to work and if the leaders will not do it—you admit if that were true, you could put the leaders in jail, but that wouldn't make the men mine coal.

Mr. DENHAM. That is true.

Senator PEPPER. If the leader refused to do it, you put him in jail and issue an order against the men?

Mr. DENHAM. I haven't said anything of the sort.

Senator PEPPER. Read the answer to the last question.

Senator TAFT. What difference does it make?

He didn't mean it if he said it.

Mr. DENHAM. I certainly didn't. I wouldn't have meant a thing of that sort.

Senator MORSE. May I suggest I think the record is going to have to speak for itself without our interpreting what he would have meant if he had said something else. We will have to interpret what he did say.

Mr. DENHAM. If I made such a statement, I had no intention of doing so because my reply was intended to be a restrictive one that your

injunction would be directed to the organization of the men—that is, the union or the labor organization—and its officers.

Senator PEPPER. Then you made a statement subsequent to that that if they didn't do that—didn't you make another statement?

Mr. DENHAM. I don't think I did. If I did I didn't intend to imply that if the officers didn't do it, you would direct it against the men.

Senator PEPPER. You do say that or you do not?

Mr. DENHAM. I never did intend to say it and never have that I know of.

Senator PEPPER. The law contains no power to issue an injunction against men stopping work?

Mr. DENHAM. I can't find it in the law.

Senator PEPPER. You regard the authority contained in section 208 as authority to proceed only against the union, the leaders of the union?

Mr. DENHAM. Senator, in the first place I have confined the major portion of my operations and my interests and very intense efforts to title I of the act, and if I go into section 208, I am getting outside of my bailiwick as a National Labor Relations Act man.

Senator PEPPER. You are general counsel, aren't you?

Mr. DENHAM. Yes, sir; I am general counsel.

Senator PEPPER. You helped write the act, didn't you, by memorandum which you submitted?

Mr. DENHAM. No, sir; I did not.

Senator PEPPER. I call your attention again to the gratification you expressed about that matter on page 5. I don't want to diminish your gratification about this matter.

Mr. DENHAM. If the Senator had been here earlier in the session, he would have heard me say that my gratification was that my mind ran parallel to those of other great minds.

Senator PEPPER. If you will just allow me, you remember I heard this myself and you remember I reminded you last night of certain language, which was a part of your examination before this committee when you were up here for examination prior to your confirmation. After Senator Donnell had spoken about his long acquaintance with you, this colloquy took place:

Senator DONNELL. I want to ask a very few questions of Mr. Denham. Would you tell us, please, whether or not you furnished me some few months ago with a memorandum concerning changes which you thought were desirable to be made in the Wagner Act?

Mr. DENHAM. Yes, sir.

Senator DONNELL. Do you recall whether in the Taft-Hartley Act any of those changes which you suggested are made?

Mr. DENHAM. I was very much gratified to find the major portion of those suggestions incorporated in the Taft-Hartley Act.

So I assumed you, having helped write it or having had the major part of your suggestions incorporated in it, and having been general counsel for some time, were fairly familiar with the provisions of the law; you are, are you not?

Mr. DENHAM. I suggest, Senator, we let the record of the earlier part of this session stand.

Senator PEPPER. I have asked this in perfectly good faith. I want to find out what power to make men keep mining coal, for example, exists under the Taft-Hartley law. We are told by many, no doubt very conscientiously, that we have got to keep this Taft-Hartley Act

in order to protect the national health and safety, and that if we should abandon those injunctive provisions, that the Nation would be exposed to the greatest jeopardy because you couldn't keep men producing essential services or performing essential labor.

I am, in a perfectly sincere way, trying to find out whether the Nation is protected by any such shield against any such hazard or jeopardy. You told us when I asked you what power the injunction authority carried to keep men from quitting work, you told us injunction was not to be issued against the men directly—that is, after advice of counsel—but you told us that it would be directed against the leaders of the organization.

Now, I ask you to refer to the language on page 22 in section 208 (a) :

Upon receiving a report from a board of inquiry the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties—

of the parties—

to enjoin such strike or lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out—

(i) Affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce and

(ii) If permitted to occur or to continue, will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lock-out, or the continuing thereof, and to make such other orders as may be appropriate.

Does that limit those orders to the leaders of the organization?

Mr. DENHAM. I think so.

Senator PEPPER. Union officials?

Mr. DENHAM. I think so.

Senator PEPPER. What do you base your opinion upon?

Mr. DENHAM. Provisions of section 502, among other things.

Senator PEPPER. Let's see what section 502 provides. Section 502, the saving provision, reads:

Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by any employee or employees in good faith because of abnormally dangerous conditions of work at the place of employment of such employee or employees be deemed a strike under this Act.

Now let me be sure if I understand you again. While the court might under section 208 (a) issue an injunction against John L. Lewis, the court does not possess authority, in view of section 502, to require the individual miners to desist from stopping work during the 80-day period of the injunction?

Mr. DENHAM. I think that is right.

Senator PEPPER. Then the public has got a very different impression of that law from what you as general counsel have.

Mr. DENHAM. That very conceivably might be true.

Senator PEPPER. So then it is very interesting for the general counsel to let it be known here that there isn't any power in the Taft-Hartley Act to make the coal miners of this country continue for 80 days to produce coal if an injunction order is issued under the authority of section

208 against their stopping work. So we don't have these protections then that a lot of people have been telling us existed in the Taft-Hartley law.

Senator TAFT. Nor the slave-labor provisions a lot of people have been telling us we had.

Senator PEPPER. This is the first time we have had an authoritative statement by the general counsel of the National Labor Relations Board that there wasn't any power to affect the individual worker under this act. If the people understand that, maybe they will feel more sympathetic toward the Thomas bill, which doesn't purport to contain any injunctive authority to make them work although witness after witness here before this committee has told us that the national security would be endangered and jeopardized if the courts didn't have power to issue injunctions.

What did they mean? To keep the men from quitting work? We have made progress if we come to an understanding about that matter, Mr. Denham.

Senator MORSE. Will the Senator yield for just a brief observation?

Senator PEPPER. Yes.

Senator MORSE. I haven't any question that the argument made by the general counsel is an argument that in all good faith could be made, and I can see that a case might be made in support of it, but I submit that the reading of the Taft-Hartley Act and particularly its emergency strike provisions and the specific language in there giving the court the power to enjoin a strike will force the courts back on all the precedents as to what enjoining a strike involves, and the courts, in my judgment, would find in an emergency case that it does have the power to enjoin.

Senator PEPPER. That is obviously what the act intended to confer. We have debated that up and down the length of the country and in the Congress as to whether we should have these emergency powers.

Mr. DENHAM. I understand it has been debated, Senator.

Senator PEPPER. Well, so it is not necessary then for me to ask you about what happens at the end of the 80 days. If you cannot make them work during the 80 days, of course, they can't be made to work at the expiration of the 80 days.

Mr. DENHAM. That is outside my bailiwick. When you talk about inherent powers of the President and those things——

Senator PEPPER. I am talking only about the Taft-Hartley Act.

Senator TAFT. May I put in one question on that?

Senator PEPPER. Yes.

Senator TAFT. Your memorandum to Senator Donnell related solely to amendments to the Wagner Act, did it not?

Mr. DENHAM. Yes, sir. It didn't go into any of these things.

Senator TAFT. It had no reference to titles 1, 2, 3, or 4 of the Taft-Hartley Act?

Mr. DENHAM. No.

Senator TAFT. And the general counsel of the National Labor Relations Board has no jurisdiction over this emergency proposition?

Mr. DENHAM. No. We have jurisdiction over this vote on the last offer and that is purely a mechanical thing. We conduct an election.

Senator TAFT. But the question of the injunction is solely for the President and the Attorney General?

Mr. DENHAM. The President of the United States and the Attorney General and the courts.

Senator HUMPHREY. Will the Senator yield?

Senator PEPPER. Yes.

Senator HUMPHREY. It is quite obvious if we want to discuss the emergency powers and the national emergency, perhaps we ought to have separate legislation on that.

Mr. DENHAM. That might be.

Senator HUMPHREY. We can take the Thomas bill, S. 249, which is an amendment to the Wagner Act, and that is what we are really doing here. That is what we should have been doing for the last 2 weeks. That was the purpose of the hearing.

Actually what this hearing has resolved itself a good deal into is a discussion of the emergency powers that exist, which the Senator from Florida now reveals do not exist. The great myth has been exploded.

And yet, at the same time, one of the authors of the act says it does exist. I think we ought to have some clarification. Is there a bogeyman here or is he gone?

Senator MORSE. I deny the allegation.

Senator HUMPHREY. I didn't say you were the author.

Senator TAFT. I didn't say anything about it.

Senator HUMPHREY. The Senator from Ohio said there is power and he has said repeatedly——

Senator MORSE. No.

Senator HUMPHREY. National emergencies.

Senator TAFT. I object to the exclusion from this hearing of this thing about national emergencies because the Thomas bill puts in a provision which was never in the Wagner Act providing for action in such circumstances.

Senator HUMPHREY. Are we going to discuss the Thomas bill now at long last? I am for it.

Senator TAFT. We have to. That presents one form of national emergency, the Taft-Hartley Act does another, and we have two or three witnesses who have a third and a fourth. Mr. Denham is speaking, as I understand it, as a lawyer with some general experience in the labor-relations field. But the National Labor Relations Board has no jurisdiction either under the Thomas bill or under the Taft-Hartley Act over this question of national emergencies.

Senator HUMPHREY. Exactly.

Senator PEPPER. I was merely asking the general counsel of the National Labor Relations Board, primarily charged with the interpretation and enforcement of this act, about one of the provisions of this act.

Mr. DENHAM. The general counsel, Senator Pepper, is charged with the interpretation and enforcement of title 1.

Senator PEPPER. I didn't realize that you had not examined but one portion of the act during the time you have been general counsel. Maybe you felt it was improper to go over on the other pages.

Mr. DENHAM. No. I am not going to impinge on Mr. Ching's territory or upon the territory of the courts or the Attorney General when it comes to actual operations.

Of course, I am not unfamiliar with what the act says, but that is their job.

Senator PEPPER. Now the next question is: You as general counsel are charged at least with the enforcement of title 1 of the act, the initiation of action under title 1.

Mr. DENHAM. Yes, sir.

Senator PEPPER. As general counsel of the National Labor Relations Board.

Mr. DENHAM. That is right.

Senator PEPPER. Do you know of any other general counsel for any board or agency in Washington—although this may have been covered in my absence today—who has any power comparable to the power conferred upon you under the Taft-Hartley Act?

Mr. DENHAM. I have said it before, Senator Pepper: The term “general counsel” as being used here is a misnomer. I think you took exception to my statement last night.

The term “general counsel” has a well-defined meaning in the line of business as the legal adviser to an organization. Now I am not the legal adviser to the Board headed by Mr. Herzog. I am barred from being counsel to them.

The man who occupies the job called that of general counsel is the administrator of the law.

Senator PEPPER. How would you describe your title, authority, and power?

Mr. DENHAM. General administrator.

Senator PEPPER. General administrator?

Mr. DENHAM. Yes, sir.

Senator PEPPER. But you initiate these actions without consulting with the Board about it, don't you?

Mr. DENHAM. That is true.

Senator PEPPER. So instead of having a board, we had a three-man board that did that under the Wagner Act, didn't we?

Mr. DENHAM. Yes.

Senator PEPPER. And so a majority, at least, of a three-man board had to authorize such action as you are now authorized to take upon your own individual responsibility and initiative?

Mr. DENHAM. You mean in the issuance of complaints?

Senator PEPPER. That is right.

Mr. DENHAM. That is correct.

Senator PEPPER. And in the exercise of the other powers of getting injunctions in case of attempted boycott and that sort of thing?

Mr. DENHAM. You are right.

Senator PEPPER. That is a greater centralization of power in one man under this act to initiate complaints against alleged wrongdoers than existed under the Wagner Act, is it not?

Mr. DENHAM. Than under the Wagner Act, definitely.

Senator PEPPER. If the Thomas bill should be enacted and the membership of the Board should remain five in number but the general counsel should simply be assigned only what are ordinarily the duties of the general counsel, namely, be subordinate to the Board and advise the Board as legal adviser, at least three members of that five-man Board would have to concur before an affirmative action that you can now individually take could be undertaken by the Board or by the general counsel; is that right?

Mr. DENHAM. You are assuming the creation within the Board of someone who functioned in substantially the same orbit in which the general counsel now functions; is that it?

Senator PEPPER. I am assuming the abolition and the separation of authority and power between the Board and what is now called the general counsel.

Mr. DENHAM. Go back to the old Wagner Act formula.

Senator PEPPER. In going back don't we achieve one very important distinction? That is, if the Board was the three-man Board existing under the Wagner Act, two men would be required to take the action you now individually take, and if the Board should consist of five members, at least three men would have to concur before the action you can now take individually could be undertaken. That is correct, is it not?

Mr. DENHAM. Senator, standing alone that is a very persuasive statement and is also a correct statement, but it is not entitled to stand alone because there is a tremendous amount of background against which it must be measured.

Senator PEPPER. I want you to have full opportunity to make any explanation you wish to make, but I am thinking only about the matter of power and I am pointing out in these questions to you that the Taft-Hartley Act centralizes power in you as general counsel the way, so far as I know, no law of the Congress centralizes power in any other one man in Washington.

Mr. DENHAM. I am not familiar with the extent of the authority of the Administrator of the Wage and Hour Division, for instance. I am not familiar with those things, and I don't know. So it would be, I think, unfair for me to say there is no other single authority within the Government structure such as this.

Senator PEPPER. Do you know of any general counsel or any single administrator in Washington who has the power to initiate, to get an injunction for an alleged breach of the act with respect to which he operates?

Mr. DENHAM. I don't think that power exists in any body, board or otherwise, except as is provided in the Taft-Hartley Act. We do have a Norris-LaGuardia Act.

Senator PEPPER. I know we have a Norris-LaGuardia Act. You know of no other law that has set aside the Norris-LaGuardia Act except the Taft-Hartley law? All other agencies are governed by it when they seek action in the courts, is that right?

Mr. DENHAM. I know of no other agency that deals with the same type of controversies.

Senator PEPPER. You would not say that the Interstate Commerce Commission which regulates transportation of the country, you wouldn't say that the Securities and Exchange Commission, which regulates the stock market, the Federal Trade Commission which has jurisdiction over the whole field of business and fraudulent practices therein, and the like, and the other agencies here in Washington such as the Federal Reserve Board which has power to affect the banks of this country and to fix rediscount rates and carry on open-market operations, and that sort of thing, and all the other boards and agencies in Washington—that they don't have power, very great power?



Mr. DENHAM. They all have power; yes, sir. They do not deal with a type of controversy that falls in anything like the same general area that this one does. We are dealing here with controversies involving human emotions and human relations, and you were going along there naming the various agencies. I am wondering, Senator, if there has not been reposed in the Comptroller of the Currency, the man who is the director general of the national banks, autocratic power just about as much power of life and death over those institutions as one could have. I throw that out as a suggestion.

Senator MORSE. May I say that answer satisfies me because Mr. Denham recognizes, I assume from his answer, that there has been vested in him what I consider to be and which he apparently recognizes to be autocratic power, and that is what we seek to eliminate.

Mr. DENHAM. Gentlemen, I am not going to argue with anybody that there has not been placed in the hands of the general counsel here a tremendous amount of authority, power, and discretion from the exercise of which there is no appeal. There is no question about it.

Senator PEPPER. That is what I was going to emphasize. We are approaching the judgment time. I want an answer to one other question.

You say you didn't know of any case where an injustice had been done or, I assume, might be done to employees, labor. May I put this case to you:

Let us assume that in a certain city there is a strike of printers of a certain newspaper and the newspaper whose employees are striking sends its paper or a part thereof over to another newspaper in the same city where the employees are not on strike and asks that newspaper to print that paper or part of it for the paper whose employees are on strike. You get the case I am putting; don't you?

Mr. DENHAM. I think so.

Senator PEPPER. I will ask you whether or not it would be within your power, if those striking printers in, let us call the newspaper A where the strike is, we will say they went over and attempted to persuade, even in a peaceful way, the employees of newspaper B, which was about to print newspaper A, not to print that paper, not to work on that paper.

Mr. DENHAM. I take it, Senator, what you are driving at is, Does that come within the secondary boycott area?

Senator PEPPER. That is right. The case I am putting is: In that case would you not have the power to seek an injunction against those employees who were on strike at newspaper A who went over and even peaceably tried to persuade the employees of newspaper B not to print that paper?

Mr. DENHAM. There are some differences of opinion on that as to whether that constitutes a secondary boycott in that sense.

Senator PEPPER. That is, working on something that comes from another producer?

Mr. DENHAM. May I continue?

Senator PEPPER. I beg your pardon.

Mr. DENHAM. I am very sympathetic to the employees in the second spot. I think that they, belonging to the same union—I am assuming that is what you are talking about, that the employees in the shop to which the material was sent are members of the same union as the striking employees in the newspaper.

Senator PEPPER. That is right; I am assuming that.

Mr. DENHAM. So that they are all in the same family.

Senator PEPPER. You can assume either one—that they are in the same union or it is a matter of wages and hours and they have a common interest.

Mr. DENHAM. We had a decision of the district court in New York which conceivably might govern a situation of that sort in which Judge Rifkind denied an injunction, where the Design Engineering Co., or we will say Company A, which was in the business of designing and doing engineering work, had a small amount of work that they ordinarily sent over to somebody, their overflow, and then when the strike came along they began sending a greater amount of their work over there.

The boycott was directed to Company B, and Judge Rifkind said, "No soap" there. He said, "I am not going to grant an injunction." I think he was right.

Senator PEPPER. You are taking the position that you don't consider you have authority to get an injunction in such a case?

Mr. DENHAM. May I just go one step further and answer that by indirection rather than by direction, sir?

Senator PEPPER. Yes.

Mr. DENHAM. In the Burgen Lumber Co. case down in Georgia there was a charge filed against the International Lumber Workers, charging a violation of 8 (b) (4) (A) and (B).

May I just read this?

Senator PEPPER. Well, it is 5:30 and we will not be able to finish.

Mr. DENHAM. The union ordered the sawmill employees not to stack lumber and that was merely a refusal to do work which the striking employees would normally do and did not have the object of forcing sawmill operators to cease doing business with the lumber workers.

I would say under normal circumstances we would not attempt to get an injunction in that case.

Senator PEPPER. The second point I want to put is this—and if you are coming back, I will go into it further later: This Taft-Hartley law puts a specific provision in there protecting the free speech of management.

Mr. DENHAM. Yes, sir.

Senator PEPPER. Take the case I put.

Senator TAFT. And labor also.

Senator PEPPER. I am going to bring that out.

Mr. DENHAM. Free speech, no matter by whom.

Senator PEPPER. Take the case I put. When the employees from newspaper A go over there and in a peaceful way argue with these fellows about the advantage of the union and about the advantage of workingmen sticking together and so on, assuming that that is a secondary boycott, wouldn't they be subject to an injunction and the penalties for a secondary boycott for so doing?

Also, if that is so, while you accentuate your protection of free speech on the part of employers, doesn't the secondary boycott provisions that are in the Taft-Hartley Act deny free speech which is in the interests of the employees to the employees?

Mr. DENHAM. Senator, your analogy would be much more forceful if you departed from your first example. If these employees in

the second place were brothers in the union of the striking employees, they wouldn't have to argue with them.

Senator PEPPER. I am simply saying this statute makes it an unlawful act to attempt to have a secondary boycott and subjects them to injunctions and other penalties that can be spelled out here if they seek to induce or to cause a secondary boycott, and if they go over there with a peaceful argument and peaceful persuasion to these other workers to ask them not to work on this newspaper which is being printed in shop B when they are on strike in shop A, and the proprietor of shop A sends the material to shop B, I say they are not protected in their free speech; they are penalized.

Mr. DENHAM. If the Design Engineering decision has any force, the question would never be raised in that case.

Senator HUMPHREY. Senator Pepper, in the case that was mentioned here with Judge Rifkind, did the witness say the Judge did not issue the injunction?

Mr. DENHAM. He denied the injunction.

Senator HUMPHREY. But you sought it; did you not?

Mr. DENHAM. Yes.

Senator HUMPHREY. But you were saying here to Senator Pepper awhile ago that in some of these cases you wouldn't seek it.

Mr. DENHAM. We have the authority of Judge Rifkind's decision, which we are willing to follow.

Senator HUMPHREY. You did seek the injunction?

Mr. DENHAM. Yes.

Senator HUMPHREY. You did interpret it to be a violation?

Mr. DENHAM. We have no illusions, Senator Humphrey, that we are 100 percent perfect, and that the court will always agree with us. Most of us have been practicing lawyers and all of us have had the unpleasant sensation of losing a case now and then.

Senator HUMPHREY. But you were, however, trying to assure Senator Pepper that in some of these cases that seemed to be so much on the margin that you most likely wouldn't act on them; isn't that right?

Mr. DENHAM. If you want an extenuating circumstance, I don't like to alibi myself and I am not going to. As I said the other day, and as I said a year and a half ago, I expect to see my office make mistakes. We are going to handle a lot of business and we are going to have to make a lot of decisions, and if we don't make mistakes, we will not be human.

In this Design Engineering case the facts on which Judge Rifkind turned his decision developed after the case had opened. They were facts we did not know, and they had not come to our attention as to the volume of stuff and the fact that there was an increase and the different percentage ratio of business going over there.

Whether we would have proceeded had we known those things, I don't know.

Senator HUMPHREY. Would you have proceeded under the hypothetical case of Senator Pepper?

Mr. DENHAM. I don't think we would; no.

Senator HUMPHREY. Why?

Mr. DENHAM. Because with those facts before you, you have got a direct flow and a direct contact between the two and almost you have a single employer.

The CHAIRMAN. The time has come, gentlemen. Senator Morse has an announcement.

Senator MORSE. I want to announce first that the press asked the staff to prepare some copies of the final wording of the resolution adopted this morning. We have only five copies. We will leave them at the press table, if you want them, with the understanding they will remain at the press table for your consultation.

To the witnesses, in behalf of the Republicans, I wish to announce that it is the intention that the witnesses called by the Republican side after we start the new procedure under this resolution will be limited to 10 minutes for their opening statement, and cross-examination will start after the 10-minute statement. We have to do that in the interest of saving time.

The CHAIRMAN. We will stand in recess until 7:30 tonight, and we meet in the caucus room, room 318, in the Senate Office Building, for tonight.

(Whereupon, at 5:35 p. m., the committee adjourned, to reconvene at 7:30 p. m., of the same day.)

(Subsequently Mr. Denham addressed Senator Donnell as follows:)

NATIONAL LABOR RELATIONS BOARD,  
Washington 25, D. C., February 25, 1949.

HON. FORREST C. DONNELL,

*Senate Committee on Labor and Public Welfare, United States Capitol,  
Washington, D. C.*

DEAR SENATOR DONNELL: During my testimony before the committee, you requested that I furnish the committee with a chronology and certain other material concerning the litigation involving the International Typographical Union. This is in response to that request.

A total of 15 separate charges alleging violations of the Taft-Hartley Act by the International Typographical Union and its local unions were filed in the Board's regional offices by various employers and employer associations.<sup>1</sup> Seven of these charges were litigated before the trial examiners of the Board. Cases Nos. 5-CB-1 and 2-CB-14, involving local commercial printers and a single newspaper, respectively, were litigated separately in order to obtain an appropriate order in the respective local situations. Cases Nos. 9-CB-5 and 13-CB-61, which were consolidated for hearings, were designed principally to test the legality of the national bargaining policy of the ITU in the newspaper industry and to obtain an appropriate order for the national policy in that industry. Cases Nos. 2-CB-30, 2-CB-39 and 4-CB-12, which were likewise consolidated for hearing, were designed principally to litigate the same issues and obtain an appropriate order for the national policy in the commercial printing industry.

The charges in the remaining eight cases have been either dismissed or withdrawn or are being held in the regional offices where filed, pending the Board's disposition of the issues in the cases which have already been tried.

I have taken the liberty of assuming that the committee would find a separate chronology for each of the cases clearer and therefore more useful, than it would a single consolidated statement for all of the cases. Accordingly, I have had the material prepared in that way. The injunction and contempt proceedings in the Indiana district court were ancillary to case No. 9-CB-5 and are included in the chronology which covers that case.

As requested by you, I am also forwarding copies of the trial examiners' intermediate reports in the litigated Board cases; copies of the court's opinions, findings, and decrees in the injunction litigation; and the general counsel's briefs and other memoranda pertinent to the latter proceedings. These documents, which are being forwarded under separate cover, are identified by exhibit number at the appropriate points in the attached chronologies.<sup>2</sup>

Sincerely,

ROBERT N. DENHAM, *General Counsel.*

<sup>1</sup> This is exclusive of a charge filed against the Minneapolis ITU local, alleging a secondary boycott under sec. 8 (b) (4) (A) of the act which was settled and withdrawn.

<sup>2</sup> The documents referred to are on file with the committee.

## INTERNATIONAL TYPOGRAPHICAL UNION CASES BEFORE THE BOARD

## CHRONOLOGY

*Case No. 5-CB-1, Baltimore, Md.*

September 23, 1947:

Charge filed by Graphic Arts League in Baltimore regional office against ITU and local 12 (Baltimore), alleging violations of section 8 (b) (1) (A), (1) (B) and (3).

Board complaint issued by Baltimore regional director alleging that ITU and local 12 were engaging in unfair labor practices violative of section 8 (b) (1) (A), (1) (B) and (3) and hearing scheduled for October 6, 1947.

October 3, 1947: Hearing postponed to October 14, 1947, on request of union.

October 14, 1947: Hearing on complaint opened before Board Trial Examiner William Ringer.

October 25, 1947: Hearing before trial examiner closed.

November 24, 1947: Order issued by trial examiner granting motion of general counsel to amend Board complaint to include section 8 (b) (2) violation allegation and reopening hearing for the taking of evidence on the issues raised by the amendment to the complaint.

December 8, 1947: Hearing reopened and closed before Trial Examiner Ringer.

April 20, 1948: Intermediate report issued by trial examiner finding that ITU and local 12 had violated section 8 (b) (1) (A) and (2) and that local 12, in addition, had violated section 8 (b) (3). (Copy of the intermediate report is submitted herewith as exhibit 1.)

April 30, 1948:

ITU requested oral argument before Board on exceptions to intermediate report.

Upon request of ITU, time for filing exceptions to intermediate report extended to June 1, 1948.

May 1, 1948: Charging party requested oral argument before Board on intermediate report.

May 3, 1948: ITU Local 12 requested oral argument before Board on exceptions to intermediate report.

May 27, 1948: Upon ITU's request, time for filing exceptions to intermediate report again extended, this time to June 15, 1948.

May 15, 1948:

ITU Local 12, charging party and general counsel, filed exceptions to intermediate report, and briefs in support thereof.

Present status: Pending before Board on exceptions to intermediate report and requests for oral argument thereon, which, as yet, has not been scheduled.

*Case No. 2-CB-14, Nassau, N. Y.*

September 27, 1947: Charge filed by Daily Review Corp. in New York City regional office against ITU and local 915 (Nassau, N. Y.), alleging violations of section 8 (b) (1), (2) and (3).

November 10, 1947: Board complaint issued by New York City regional director alleging violations of section 8 (b) (1) (A), (1) (B), (2), and (3).

December 14, 1947: Hearing on complaint opened before Trial Examiner Peter Ward.

February 19, 1948: Hearing before trial examiner closed.

June 7, 1948: Intermediate report of trial examiner issued finding that local 915 had violated section 8 (b) (1) (A), (2) and (3) and ITU had violated section 8 (b) (1) (A) and 8 (b) (2). (Copy of the intermediate report is submitted herewith as exhibit 2.)

June 21, 1948: ITU Local 915 requested oral argument before Board on exceptions to intermediate report.

June 23, 1948: ITU and charging party requested oral argument before Board on exceptions to intermediate report.

June 25, 1948: American Newspaper Publishers Association, as intervenor, requested oral argument before Board on exceptions to intermediate report.

June 28, 1948: General counsel filed exceptions to intermediate report.

July 6, 1948: ITU and local 915 filed exceptions to intermediate report.

July 15, 1948: Charging party filed exceptions to intermediate report.

July 19, 1948: American Newspaper Publishers Association, as intervenor, filed exceptions to intermediate report.

July 20, 1948: Local 915 requested extension of time to file briefs in support of exceptions to intermediate report.

July 22, 1948: Time for filing briefs extended to August 23, 1948.

August 23, 1948:

Briefs in support of exceptions to intermediate report filed by all parties.

Present status: Pending before Board on exceptions to intermediate report and requests for oral argument thereon, which, as yet, has not been scheduled.

*Cases Nos. 9-CB-5 and 13-CB-6 (American Newspaper Publishers Association and Chicago)*

November 5, 1947: Charge in case No. 13-CB-6, filed in Chicago regional office by Chicago Newspaper Publishers Association against Chicago ITU local, alleging violations of section 8 (b) (1) (A), (1) (B), (2), and (3).

November 17, 1947: Charge in case No. 9-CB-5, filed in Cincinnati regional office by American Newspaper Publishers Association against ITU and its officers, alleging violations of section 8 (b) (1) (A), (1) (B), (2), and (6).

November 21, 1947: Board complaint issued by Cincinnati regional director in case No. 9-CB-5, alleging violations of section 8 (b) (1) (A), (1) (B), (2), and (6).

December 9, 1947:

Hearing on complaint in case No. 9-CB-5 opened before Trial Examiner Leff.

Respondents' motion to dismiss, inter alia, allegation of complaint in case No. 9-CB-5 that refusal to bargain violated section 8 (b) (1) (A) granted by trial examiner.

Hearing before trial examiner recessed and trial examiner's order granting above motion appealed to Board.

December 16, 1947: Board orders allegation of complaint reinstated in case No. 9-CB-5 that refusal to bargain violated section 8 (b) (1) (A).

January 7, 1948: Hearing before trial examiner in case No. 9-CB-5 resumed.

January 13, 1948:

Charge in case No. 13-CB-6 amended to join ITU as respondent and to eliminate section 8 (b) (1) (B) allegation.

Board complaint issued by Chicago regional director in case No. 13-CB-6, alleging violations of section 8 (b) (1) (A), (2), and (3).

January 14, 1948: Case No. 13-CB-6 consolidated with case No. 9-CB-5 for hearing before Trial Examiner Leff.

January 16, 1948: Petition for injunction under section 10 (j) filed in United States District Court for Southern District of Indiana and rule to show cause issued returnable February 9, 1948 (copy of rule and petition with documentary exhibits is submitted herewith as exhibit 3).

January 21, 1948: Hearing before trial examiner recessed.

February 2, 1948: Respondents filed motion in district court to dismiss injunction proceeding, claiming proceeding was unconstitutional and general counsel lacked authority to institute the proceeding.

February 9-10, 1948: Judge Swygert, sitting in District Court for Southern District of Indiana, heard argument on respondents' motion to dismiss injunction proceeding and adjourned the hearing on the petition for the injunction pending his decision on the motion.

February 10, 1948: Petition to intervene of American Newspaper Publishers Association (the charging party), Southern Newspapers Publishers Association, Inland Newspaper Publishers Association, and Chicago Typographical Union, No. 16, denied by Judge Swygert but permission granted to them to file briefs amicus curiae.

February 25, 1948: Judge Swygert denied motion to dismiss injunction proceeding and ordered hearing on the injunction petition for March 3, 1948 (copies of Judge Swygert's opinion, reported at 76 F. Supp. 881, and of the general counsel's brief in opposition to motion, are submitted herewith as exhibits 4 and 5).

March 3, 1948: Hearing commenced before Judge Swygert, at which oral and documentary evidence was offered by both the general counsel and respondents.

March 14, 1948: Hearing before Judge Swygert closed.

March 15, 1948:

Hearing before trial examiner resumed.

Hearing before trial examiner recessed.

March 27, 1948: Findings of fact and conclusions of law entered by Judge Swygert (copies of court's findings of fact, conclusions of law and injunction decree, and of general counsel's briefs filed in support of the injunction are submitted herewith as exhibits 6 to 10).

March 29, 1948:

Upon application of respondents, Judge Swygert refused to grant stay of injunction pending appeal to court of appeals (no application was made to the court of appeals for a stay nor appeal noted).

Conference in Judge Swygert's chambers in Hammond, Ind., between counsel for respondents and representatives of general counsel, at which respondents expressed intention to comply with injunction and to establish procedures for the examination of the competency of all applicants for employment on a nondiscriminatory basis.

March 30, 1948: Hearing before trial examiner resumed.

March 31, 1948: Proposed instructions of the ITU to local unions regarding compliance with injunction and the establishment of nondiscriminatory procedures for testing the competency of all applicants for work approved by representatives of general counsel.

April 21, 1948: General counsel receives first complaints that respondents were violating the district court's injunction decree. Similar complaints came in from time to time thereafter.

April 28, 1948: Hearing before trial examiner resumed.

May 4, 1948: Hearing before trial examiner recessed.

May 13, 1948: Hearing before trial examiner resumed.

May 18, 1948: Hearing before trial examiner closed.

About June 15, 1948: General counsel ordered detailed field investigation of the contempt allegations.

June 18, 1948: General counsel made a public announcement of the initiation of the investigation of the contempt charges and his intention to institute contempt proceedings if the charges were sustained (a copy of the press release is submitted herewith as exhibit 11).

July 28, 1948: Representatives of general counsel's office requested to appear in Senator Taft's office (the meeting is fully described in letter to the President, dated August 19, 1948, copy of which is submitted herewith as exhibit 12).

August 4, 1948: Report of the results of the investigation of the contempt charges submitted by the investigators in which contempt proceedings are recommended (a copy of the written report of the investigators is submitted herewith as exhibit 13).

August 13, 1948: Conference between representatives of general counsel and respondents' attorney in effort to obtain informal compliance without contempt proceedings.

August 15, 1948: Trial examiner Leff's intermediate report released, finding violations of section 8 (b) (1) (A), (1) (B), and (2) in case No. 9-CB-5, and violations of section 8 (b) (2) and (3) in case No. 13-CB-6. Cases are transferred to the Board. (Copies of the intermediate reports are submitted herewith as exhibits 14 and 15.)

August 21, 1948: Final conference between representatives of general counsel and respondents' attorneys in effort to secure compliance with injunction without formal contempt action.

August 23, 1948: Representatives of general counsel advised respondents' attorney that contempt petition would be submitted to Judge Swygert and that the issuance of a rule to show cause would be requested on August 24, 1948.

August 24, 1948: Contempt petition presented to Judge Swygert by representatives of general counsel in presence of respondents' attorneys, who opposed issuance of rule to show cause. Judge Swygert took issuance of rule under advisement. (Copy of rule and petition, with documentary exhibits, is submitted herewith as exhibit 16.)

August 25, 1948:

Contempt petition filed with court in Indianapolis.

General counsel requested oral argument before Board on exceptions to intermediate reports.

August 26, 1948: Rule to show cause why respondents should not be adjudged in contempt issued by Judge Swygert, returnable September 20, 1948.

September 3, 1948: ITU requested oral argument before Board on exceptions to intermediate reports.

September 20, 1948: Trial opened before Judge Swygert on contempt charges.

September 24, 1948: Trial closed on contempt charges.

October 14, 1948: Judge Swygert issued his opinion, findings of fact, conclusions of law and decree, adjudging respondents in contempt of court. (Copies of the court's opinions, findings, conclusions, and decree, and of the general counsel's briefs filed in the contempt proceeding are submitted herewith as exhibits 17 to 21.)

October 15, 1948:

General counsel's exceptions to intermediate reports and brief in support thereof filed.

Respondents filed notice of appeal of contempt decree to Court of Appeals for Seventh Circuit.

October 18, 1948:

Respondents' application to Judge Swygert for stay of contempt decree pending appeal denied.

ITU, charging party, and interveners, filed exceptions to intermediate reports and brief in support thereof.

October 20, 1948: Respondents' application to court of appeals for stay of contempt decree pending appeal granted upon oral application with permission to general counsel to move formally to vacate the stay.

October 25, 1948: General counsel filed motion with court of appeals to vacate stay. (Copies of motion and general counsel's brief in support thereof are submitted herewith as exhibits 22 and 23.)

November 10, 1948: Court of appeals vacated stay of contempt decree pursuant to general counsel's motion.

November 20, 1948: Hearing before Judge Swygert at which respondents demonstrated compliance with the contempt decree, except for the costs of litigating the contempt.

December 3, 1948: Court of appeals, upon consent, dismissed the appeal from the contempt decree.

January 25, 1949:

Respondents pay costs, conditioned on ultimate findings that they have violated section 8 (b) (2).

Present status: Pending before Board on exceptions to intermediate reports and requests for arguments thereon, which, as yet, has not been scheduled.

*Cases Nos. 2-CB-30, 2-CB-39, 4-CB-12, New York City, Chicago, Detroit, Pittsburgh, Newark, St. Louis, and Philadelphia*

November 21, 1947: Charge filed in New York regional office by union employers section of Printing Industry of America, Inc., against ITU and Local 6 (New York City), Local 16 (Chicago), Local 18 (Detroit), and Mailers Union No. 40 (Detroit), alleging violations of section 8 (b) (1) (A), (2), and (3). Charge docketed as case No. 2-CB-30.

December 5, 1947: Amended charge filed by union employers section adding Local 6 (Pittsburgh) to list of unions charged with unfair labor practices in case No. 2-CB-30.

December 22, 1947: Charge filed in New York regional office by union employers section of Printing Industry of America, Inc., against ITU and Local 103 (Newark, N. J.) and Local 8 (St. Louis), alleging violations of section 8 (b) (1) (A), (2), and (3). Charge docketed as case No. 2-CB-39.

January 21, 1948: Charge filed in Philadelphia regional office by Allied Printing Employers Association against ITU and Local 2 (Philadelphia), alleging violations of section 8 (b) (1) (A), (2), and (3). Charge docketed as case No. 4-CB-12.

January 1, 1948:

Board complaint issued by New York regional director in case No. 2-CB-30, alleging violations of section 8 (b) (1) (A), (2), and (3).

Notice of hearing in case No. 2-CB-30 issued for January 3, 1948.

January 20, 1948: Order issued consolidating cases Nos. 2-CB-30 and 4-CB-12.

January 21, 1948: Board complaint issued by Philadelphia regional director in case No. 4-CB-12, alleging violations of section 8 (b) (1) (A), (2), and (3).

February 3, 1948:

Hearing on complaints in cases Nos. 2-CB-30 and 4-CB-12 opened before Board Trial Examiner Howard Myers.

Board complaint issued by New York regional director in case No. 2-CB-39, alleging violations of section 8 (b) (1) (A), (2), and (3).

February 10, 1948: Order issued consolidating for purpose of hearing case No. 2-CB-39 with cases Nos. 4-CB-12 and 2-CB-30.

April 6, 1948: Hearing before Trial Examiner Myers closed.



April 29, 1948: Upon request of ITU, hearing before Trial Examiner Myers reopened.

May 5, 1948: Hearing before Trial Examiner Myers again closed.

May 26, 1948: Intermediate report issued by Trial Examiner Myers finding that ITU had violated section 8 (b) (1) (A) and (2) and that Local 2 (Philadelphia), Local 16 (Chicago), Local 18 (Detroit), Mailers Union No. 40 (Detroit), Local 7 (Pittsburgh), Local 103 (Newark, N. J.), Local 8 (St. Louis) had violated section 8 (b) (1) (A), (2), and (3). (Copy of the intermediate report is submitted herewith as exhibit 24.)

June 14, 1948: Charging parties requested oral argument before Board in support of intermediate report.

June 18, 1948: ITU and its locals moved Board to postpone time for filing exceptions to intermediate report indefinitely until Board decided other pending cases involving ITU and various locals.

June 24, 1948: General counsel requested oral argument before Board in support of intermediate report.

June 28, 1948: Board denied motion to postpone indefinitely time for filing exceptions to intermediate report and ordered exceptions to be filed by July 19, 1948.

July 13, 1948: ITU and its locals moved Board to remand case to trial examiner for the purpose of taking additional evidence.

July 7, 1948: ITU and its locals moved Board to extend time for filing exceptions to intermediate report to September 7, 1948.

July 22, 1948: Board denied motion to remand case to trial examiner and extended time for filing exceptions to intermediate report to August 2, 1948.

August 2, 1948: ITU and its locals filed exceptions to intermediate report.

August 12, 1948: ITU and its locals filed brief in support of exceptions to intermediate report.

October 11, 1948: ITU and its locals moved Board again to remand case to trial examiner and reopen record for the taking of additional evidence.

November 8, 1948:

Board postpones ruling on motion of ITU and locals to remand case to trial examiner until argument on exceptions to intermediate report.

Present status: Pending before Board on exceptions to intermediate report and requests for oral argument thereon, which, as yet, has not been scheduled.

*Case No. 18-CB-1, Sioux City, Iowa.*

September 24, 1947: Charge filed by Graphic Arts Industry, Inc., in Minneapolis Regional Office against Local 180 (Sioux City, Iowa), alleging violation of section 8 (b) (3).

February 21, 1948: Notice issued by Minneapolis regional director that charge would be dismissed for lack of evidence.

March 11, 1948: Case 18-CB-1 closed by dismissal of charge.

*Case No. 18-CB-2, Mason City, Iowa*

September 27, 1947: Charge filed by Graphic Arts Industry, Inc., in Minneapolis regional office against Local 406 (Mason City, Iowa), alleging violation of section 8 (b) (3).

June 23, 1948: Charge withdrawn, allegedly because of the ineffectiveness of available Board remedy.

*Case No. 21-CB-7, Los Angeles, Calif.*

October 15, 1947: Charge filed in Los Angeles regional office by union employers section of Printing Industries Association of Los Angeles against ITU and Local 174 (Los Angeles), alleging violations of section 8 (b) (1) (A), (1) (B), (2), and (3).

November 5, 1947: Board complaint issued by Los Angeles regional director, alleging violations of section 8 (b) (1) (A), (1) (B), (2), and (3) and hearing scheduled for December 2, 1947.

November 24, 1947: Hearing postponed indefinitely at request of charging party and union because they had entered into oral agreement.

March 17, 1948: Withdrawal of charge and dismissal of complaint approved.

*Case No. 9-CB-17, Southern Newspaper Publishers Association*

November 12, 1947: Charge filed by Southern Newspaper Publishers Association in Cincinnati regional office against ITU and all subordinate local unions dealing with members of association, alleging violations of section 8 (b) (1), (2), (3), (4), and (6). Case docketed as cases Nos. 9-CD-2 and 9-CC-9.

June 30, 1948: Charge withdrawn and refiled, without alleging section 8 (b) (4) violations, as case No. 9-CB-17. Held in regional office without further action.

*Case No. 2-CB-32, Albany, N. Y.*

November 26, 1947: Charge filed in New York City regional office by the Hearst Corp., and the Press Co., against ITU and Local 4 (Albany, N. Y.) alleging violations of section 8 (b) (1), (2), and (3).

December 27, 1948: Charge withdrawn because of agreement reached between charging parties and union.

*Case No. 4-CB-10, Norristown, Pa.*

December 12, 1947: Charge filed by Norristown (Pa.) Times Herald, Inc., in Philadelphia regional office against ITU and Local 620 (Norristown, Pa.), alleging violations of section 8 (b) (1) and (3).

January 19, 1948: Case closed by regional office due to adjustment of dispute between employer and union.

*Case No. 2-CB-60, New York City*

March 10, 1948: Charge filed by Publishers' Association of New York City in New York City regional office against ITU and Local 6 (New York City), alleging violations of section 8 (b) (1) (A), (2), and (3).

December 6, 1948: Charge withdrawn because of agreement reached between the association and union.

*Case No. 35-CB-13, Indianapolis, Ind.*

December 22, 1948:

Charge filed by Star Publishing co. (Indianapolis) in Indianapolis subregional office against ITU and Mailers Union No. 10 (Indianapolis), alleging violation of section 8 (b) (2).

Charge under investigation.

#### EVENING SESSION

The CHAIRMAN. Senator Pepper.

#### STATEMENT OF HON. ROBERT N. DENHAM—Resumed

Senator PEPPER. Thank you, Mr. Chairman.

Mr. Denham, did you make an address before the labor-management section of the American Bar Association September 23, 1947?

Mr. DENHAM. Yes, sir; I made an address before that organization on that day.

Senator PEPPER. Did you, in that address, describe yourself as an official whose powers are broad and absolute, having authority final to an outstanding degree seldom accorded a single officer in a peacetime agency?

Mr. DENHAM. I do not recall the exact language, Senator, I do not have a copy of the speech before me. I have made a good many speeches in the last 16 or 17 months. I have a recollection of having said something of that sort, and I think it was on that occasion.

Senator PEPPER. Something of that character?

Mr. DENHAM. Yes, sir; if there is any question about it, I will be very glad to supply the Senator with a complete set of all of the addresses that I have made publicly.

Senator PEPPER. No; I do not care about them. I just say this, that is supposed to be a quotation from that speech. If it is not an accurate quotation, will you please supply a statement for the record that it is not?

Mr. DENHAM. If it is a quotation from the speech, Senator, I will not quarrel with you about it.

Senator PEPPER. Now, I want to go back to the secondary boycott case, Mr. Denham, that we were talking about at the conclusion of this afternoon's hearing.

It is made an unfair labor practice—have you the Taft-Hartley Act there before you?

Mr. DENHAM. Yes, sir.

Senator PEPPER. It is made an unfair labor practice by section 8 (b) (4) (a) for a labor organization or its agents—and I am reading now from paragraph (4) of 8 (b)—

to engage in, or to induce or encourage the employees of any employer to engage in, a strike, or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities, or to perform any services where an object thereof is—

and it mentions a good many things there which might be the object of such an effort.

Now, getting back to the case I put this afternoon, as to whether in the case of a newspaper, A, which has a strike of its printers and sends its paper over to the shop, the plant, of newspaper B to be printed, and the employees of newspaper A go over there and implore the workers, the printers on newspaper B to boycott, if you please, that paper, not work on that paper that was sent over there to be printed by employer A—

Mr. DENHAM. Yes.

Senator PEPPER. Now, getting back again to that case, do you state again that you do not think that comes within the prohibition of the secondary boycott provisions of the Taft-Hartley law?

Mr. DENHAM. The case that you describe is clearly covered by the protection of section 8 (c).

Senator PEPPER. What is that? Can you tell us?

Mr. DENHAM. Free speech—

the expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act.

Senator PEPPER. What section is that?

Mr. DENHAM (reading):

if such expression contains no threat of reprisal or force or promise of benefit.

Senator PEPPER. What section is that you are reading from?

Mr. DENHAM. 8 (c).

Senator PEPPER. 8 (c)?

Mr. DENHAM. Yes, sir.

Senator PEPPER. Well, that is the provision that the employers requested, is it not?

Mr. DENHAM. I do not know who requested it. All we know—

Senator PEPPER. Did you have any reference in the memorandum you submitted to Senator Donnell about amending the Wagner Act with respect to free speech?

Mr. DENHAM. Senator Pepper, the memorandum I submitted to Senator Donnell was submitted in the very early part of the year. I did not know until today that it came to the committee almost concurrently with the committee's completing its committee print of the Taft-Hartley Act, of the Senate bill, in the first instance, and while it is a fact that practically all of the suggestions that were contained

in my memorandum to Senator Donnell which, by the way, is in the record, were found to have been covered by the committee print, the suggestions that I made to Senator Donnell are a long, long way from representing the Taft-Hartley Act or any majority percentage of the provisions in the Taft-Hartley Act.

Senator PEPPER. Well, now, let me remind you of the question I asked, whether or not you made any reference in your memorandum which you submitted to Senator Donnell of the need, in your opinion, for any amendment of the Wagner Act relative to the subject of free speech.

Mr. DENHAM. I do not know, Senator, whether I did or not. I do not remember, but please be kind enough to me to say that I was, in making a representation of that sort, acting as a public servant, and I was not representing any employers, and if there was a suggestion of this sort, it did not come from employers or from labor or anyone else. It came from a man who had been administering the law and thought he knew something about its requirements.

Senator PEPPER. I was simply asking you whether in your memorandum to Senator Donnell you did make that representation—

Mr. DENHAM. I do not recall.

Senator PEPPER. Relative to free speech.

Mr. DENHAM. I do not remember. The memorandum is in the record. You may read it and advise me whether it was done that way. I do not remember.

Senator PEPPER. As to your experience, who, generally, were complaining, employees or employers?

Mr. DENHAM. The employers were the persons against whom, under the Wagner Act, the matter was being raised continuously—continuously being raised. They were the only defendants.

Senator PEPPER. Well, was it not pretty generally understood that when 8 (c) was put into the act that it was intended to be for the benefit of employers?

Mr. DENHAM. I really have no idea. You are a member of the committee and I was not. You attended its sessions, I did not, sir. I do not know what the committee intended, sir.

Senator PEPPER. You mean you have no knowledge of the history of section 8 (c)?

Mr. DENHAM. I beg your pardon?

Senator PEPPER. You mean you have no knowledge of the history with respect to section 8 (c)?

Mr. DENHAM. I might look in the legislative history and find out something about it. I do not have it before me now, sir.

Senator PEPPER. Well, Mr. Denham, are you not—you mean to tell this committee that as familiar as you are with this subject, from having been general counsel now for how long?

Mr. DENHAM. Some 16, 17 months, whatever it is, from August 22 on.

Senator PEPPER. Some 16, 17 months, and having been a part of this whole field, that you are not willing to say that this 8 (c) was put in there at the instance of and primarily for the protection of employers against rulings of the Board that employers bitterly complained about in the past?

Mr. DENHAM. Senator Pepper, we have regarded that as one which is applicable to anyone who comes before the board, and anyone in

whose case the question might be raised, whether he is an employer, an employee or a union, and we have applied it uniformly to all of them.

Senator PEPPER. Well, let us refer to the report of the majority of the Joint Management Labor Relations Committee and to page 54, where the committee deals with the subject of free speech and quotes 8 (c) at the beginning.

Mr. DENHAM. I beg pardon, sir?

Senator PEPPER. Do you have that?

Mr. DENHAM. I am trying to get that copy of the report. It is in my briefcase somewhere. You are talking about the conference report or the report of the joint committee?

Senator PEPPER. Report of the joint committee.

Mr. DENHAM. On what page, sir?

Senator PEPPER. Page 54, where it says what section 8 (c) provides and then it quotes section 8 (c) :

Some alarm was expressed that this provision would involve Board hearings in endless argument over the introduction of evidence—

and so on.

Then it goes on down :

The committee is concerned—

and I am quoting—

with the Board's interpretation that section 8 (c) does not require it to consider as privileged noncoercive statements of an employer in a pre-election atmosphere when the Board is considering objections to the conduct of a representation election—

then it cites a case.

The Board said that Congress only applied the section to unfair labor practice cases, and then set an election aside while holding that the employer's conduct did not constitute an unfair labor practice.

It quotes then the part of the Board decision.

Mr. DENHAM. That is the General Shoe Corporation case that you are referring to.

Senator PEPPER. It continues :

While the doctrine announced by the General Shoe case has been somewhat modified in later decisions, there has been no reversal of the belief that section 8 (c) does not apply to objections in election cases. The Board has reversed the "captive audience" doctrine of the Clark Bros. case, which held that free speech lost its constitutional protection when made on the employer's time and property, with employees required to attend. In a series of cases the Board has found interference in the action of an employer in questioning employees about their union activities and membership. The Board said such action was not dissemination of views, arguments or opinion that the section sought to protect. In a number of cases the Board has held employers' statements to be a violation where the threat was hidden or implied.

The committee believes that the time has arrived where it is healthy to have all sides of the subject of unionization presented to employees. The mouths of employers have been fairly effectively sealed by the Board's interpretation of the Wagner Act. While the Supreme Court has ruled that words which contained no threat or promise of benefit were privileged an employer who exercised his right to inform his employees that he did not like unions and preferred not to deal with them often found those statements being used to explain his motives for the discharge of a union member at some future time. The Board's old theory that an employer must maintain a strict neutrality on the subject of unionization of his employee has been credited as one of the reasons why it was possible for Communists to take over the leadership of some unions. It is also possible that some

strikes could have been prevented or shortened in duration had the employer felt free to comment on the issues.

The committee believes the position of the dissenting Board members in the General Shoe case was well taken when they said: "If the expression or dissemination of views, arguments, or opinion by an employer is to be afforded the full freedom which the amended act envisages, it follows that the Board cannot justify setting aside elections merely because the employer avails himself of the protection which the statute specifically provides."

The committee therefore recommends that section 8 (c) be amended to read as follows:

The expressing of any views, arguments, or opinions, or the dissemination thereof, whether in written, printed, or graphic or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this act, nor may the same be a proper cause for objection to the conduct of any election under the provisions of this act, if such expression contains no threat of reprisal or force or promise of benefit.

Now, the committee would say all that, yet you would not feel free to say in response to my question that you knew in view of the legislative history, the Board's history of this subject, that that section 8 (c) was intended to be for the benefit and the protection of the employers?

Mr. DENHAM. Senator, after 16 months of experience with the Board I have quit trying to guess what anybody is thinking about when they are acting considerably. I can only take the law as written and apply it as we find it; and our application of this law has been that it applies with equal force to employers, to labor organizations, and to employees.

Senator PEPPER. All right. How do you reconcile then—in the first place I would like to ask you whether you are familiar with the legislative history of this section which I have just given.

Mr. DENHAM. Not to the extent, sir, that I could discuss it offhand now without reviewing it.

It is not being ignored, no. These matters have in every instance been explored so far as the legislative history is concerned. My staff has done a right good job on those things before we have arrived at any conclusions as to what interpretation or application we are going to seek to put on any provisions of this law. It is a new law.

Senator PEPPER. Now, how do you reconcile, then, giving for the first time I have ever heard you, this new theory that 8 (c) is intended to apply to employees as well as employers, ignoring the legislative history of the provision and what the joint committee said about it? How do you reconcile the right of free speech then, that is carried in section 8 (c) with the prohibition against workers "inducing or encouraging the employees of any employer to engage in" what is later set out and described as a secondary boycott?

If you take the case of any secondary boycott, where the workers go around and address petitions to the workers in plant A, which is on strike, which sends some of its goods over to plant B to be processed, and the employees of plant A striking over there and present a petition to the employees at plant B asking them to quit work, asking them to boycott this commodity that is being sent over here to plant A to be processed, and make arguments to them as to why they should do it and try to persuade them to strike, and not work on that process—would you not regard that as any violation of the secondary boycott provision of the statute?

MR. DENHAM. If they are going in, and I might say this, Senator: We have had these cases arise in various spots where picket lines have been formed, secondary picket lines.

There are some of those cases in which the secondary picket line might be regarded as a secondary boycott in every sense of the word. We have found other cases where the picket line did not fall within the purview of this section of the law.

There are many refinements in the application of this law to the various conditions and cases and situations that may arise, and that is as well as I can describe your question or can answer your question.

There may be times when something of the nature that you describe well could fall within the area of a secondary boycott. There are other times when action of a slightly different nature, with a different color to it, with different language used would not.

Well, we have attempted in every one of our cases to give full force and full faith and credit to the language of section 8 (c); and where the language falls within it, within the provisions of 8 (c), and is the expression of opinion that is referred to there, it has been protected speech.

There have been times when picket lines have been protected free speech.

There have been other times when picket lines, even though peacefully conducted, have fallen within the area of unprotected free speech.

SENATOR PEPPER. Now, Mr. Denham, you are general counsel of the National Labor Relations Board. You are, under the law vested with the authority and the responsibility, and it is made mandatory upon you if you think a case is made out, to seek an injunction against a secondary boycott; are you not?

MR. DENHAM. That is quite right.

SENATOR PEPPER. And you have a man who makes the decision as to whether you shall seek the injunction or not?

MR. DENHAM. That is right.

SENATOR PEPPER. Now, the case I have put is a simple case. I am saying that you have plant A and the workers go on strike, and plant A sends some goods that it is accustomed to making over to plant B to be processed while the strike in plant A is in progress.

The employees of plant A, the day they start to work, to process these "hot" goods, as it were, that come from plant A that is on strike, they go over there, singly or in groups or en masse, and address arguments to them and appeal to them and seek to persuade them to boycott those goods.

I want to know upon those facts what sort of decision you would make.

MR. DENHAM. The facts that you have stated indicate that that is not a secondary boycott according to Judge Rifkind, according to our opinion.

We are willing to adopt Judge Rifkind's opinion on that. It just does not fall within that category.

SENATOR PEPPER. What were the facts; what is the case that you refer to?

MR. DENHAM. Something quite similar to what you have just described.

SENATOR PEPPER. Please tell us about it.

Mr. DENHAM. It is the Design Engineering case. The details of it, roughly, were exactly what you have told about. The Design Engineering—

Senator PEPPER. What is the name of the case?

Mr. DENHAM. I beg your pardon. The charges in the case were brought by Project Engineering Co. and Design Engineering Co., and the name of the case is *Doubs v. Metropolitan Federation of Architects, Engineers, Chemists, and Technicians, Local 231, et al.* We have adopted the reasoning in that case. It is our opinion, too, that under those circumstances—

Senator PEPPER. Suppose they succeeded, and the employees at plant B yielded to the persuasion of the employees of plant A, and boycotted that, and told their employer, "If you take any more of those goods in here to be processed, we don't work," and they came in and they struck.

Mr. DENHAM. As I understand it—

Senator PEPPER. Would you hold that was still a case not of secondary boycott?

Mr. DENHAM. As I understand the case that you refer to, that is exactly what happened, and in that case we made an application for an injunction.

Senator PEPPER. Will you give us the facts?

Mr. DENHAM. There was—there was a certain amount of violence and forcefulness of one sort and another in the picture; but, in the last analysis, there was a secondary-boycott deal, and we did not realize—our investigation had not developed fully all of the facts to the extent to which the goods were being sent over to this other place.

When they were developed in the course of the hearing, the district court said, the district judge said, "No, that is not a secondary boycott. The relationship of one to the other is too close. They have got to be regarded as a primary employer," and he dismissed it, and we have taken the philosophy of Judge Rifkind there, and have adopted it as our own.

Senator PEPPER. What do you mean the relationship is too close, the relationship between the two employers?

Mr. DENHAM. Yes.

Senator PEPPER. What was the relationship?

Mr. DENHAM. Exactly what you have just described, Senator.

Senator PEPPER. Well, in the case I put, there was not any relationship. One was—

Mr. DENHAM. Except that one was sending this stuff to the other which normally he would be processing himself.

Senator PEPPER. I thought you said there was some sort of proprietary relationship?

Mr. DENHAM. No.

Senator TAFT. One was, in fact, an agent of the other.

Mr. DENHAM. Yes; one becomes the agent of the other. The relationship is that close.

Senator PEPPER. Well, was he a general agent or just an agent for this particular case?

Mr. DENHAM. He substituted himself for the other one.



Senator PEPPER. I am trying to get from you—you are familiar with the case; you have cited it. Tell us what the facts were in that case.

Mr. DENHAM. I shall be very glad to read them from the digest, which is being prepared for the use of all of the Senators.

In this case the respondent was local No. 231 of the Metropolitan Federation of Architects, Engineers, Chemists, and Technicians of the CIO.

The charging parties were the Project Engineering Co. and the Design Engineering Co. of New York City, N. Y.

The case number was docketed as Nos. 2-C-C-16 and 2-C-C-18, and the charge was brought under section 8 (b) (4) (A).

The union struck EBASCO Co. in September 1947 for economic reasons. Prior to the strike, EBASCO had been subcontracting some of its designing and drafting work, which was its regular business, to the charging parties.

During the strike, the union induced the employees of the charging parties, by picketing the building in which the charging parties maintained offices and by threats and violence, not to work for the charging parties, to force them to cease and desist from doing business with EBASCO.

Now, 8 (b) (4) (A) and 8 (b) (1) (A) were the bases of the complaint, and formed the basis for the filing of 10 (1) injunction petition under the 8 (b) (4) charge. That injunction or petition was authorized by the Washington office.

At the injunction hearing, the union developed that EBASCO had close supervision and control over the employees of the charging parties working on EBASCO work, and that during the strike the charging parties increased the work they did for EBASCO.

The New York District Court for the Seventh District of New York dismissed the injunction petition on the ground that, as to EBASCO, the charging parties were not "other employees" within 8 (b) (4), but were in effect allies of EBASCO.

Senator PEPPER. Well, you are a lawyer—

Mr. DENHAM. Subsequently the trial examiner of the Board reached the same conclusion on the 8 (b) (4) (A) charges but found an 8 (b) (1) (A) violation in connection with the violence.

The union complied with the 8 (b) (1) (A) recommended order of the trial examiner, and the general counsel did not object to the dismissal of the 8 (b) (4) (A) charge in that case; and, consequently, the case was closed without further proceedings.

Senator PEPPER. Well, as I say, you are a lawyer of experience, and you occupy a high legal position. Why didn't you tell us in the first place that the Board found that there was a prior contractual relationship existing between the two employers that—

Senator TAFT. Because you did not say so.

Senator PEPPER. Well, it does say so.

Mr. DENHAM. I beg your pardon, that is what the court found.

Senator PEPPER. The district court found that?

Mr. DENHAM. The district court found that, as to EBASCO, and, on a showing of proper cause, that the facts and circumstances would not indicate a secondary boycott.

Senator PEPPER. Yes, and for what reason? You quoted yourself in the second sentence, if I have it correctly before me and heard you correctly:

Prior to the strike, EBASCO had been subcontracting some of its designing and drafting work, its regular business, to the charging parties.

Mr. DENHAM. That was customary.

Senator PEPPER. So that there was already a contractual relationship between the two employers. One had already been doing work for the other one, and they held that one of them was not another employer within the meaning of the statute.

Mr. DENHAM. No, Senator; that is not what it says. Please read it carefully. Will you read it, sir?

Senator PEPPER. I just read what you read to me. Those are the facts. I put to you a case where there was utterly no contractual relationship previously existing between two employers, where there was no relationship between the employees. They were not related; they were totally independent, and yet employer A, who had a strike, simply went to employer B to get him to process his commodities, because his workers were on strike, and then the employees of employer A go over and induce the employees of plant B to strike, and the question is whether that is a secondary boycott.

Mr. DENHAM. It falls in the same category, in our opinion.

Senator PEPPER. Well, have you brought any suits under the secondary-boycott section of the statute?

Mr. DENHAM. The document which I am having duplicated for the benefit of the members of the committee, and which apparently the Senator has, a copy of which the Senator has now, is an historical compilation of all the petitions which we have filed.

Senator PEPPER. How many suits for injunctions have you sought against the secondary-boycott section of the statute pursuant to its mandate?

Senator TAFT. The joint committee report put in this afternoon showed a list of 25. There are some since then.

Mr. DENHAM. We have up to the first of February, if you want the figures right up to the minute; there have been 27 petitions filed under the provisions of section 8 (b) (4) (A). There have been six petitions filed under the provisions of section 8 (b) (4) (A) and (B). There have been two petitions filed under the provisions of section 8 (b) (3) (C), and one petition filed under the provisions of 8 (b) (4) (C) and (D).

Now, of those 15 petitions of the original 27 were granted. Five were denied, and seven were disposed of otherwise; and, by that "otherwise" disposition, I mean that the parties got together and settled their disputes, and got them out of the way before it became necessary for the court to act, so that in all there were 15 out of the 27 petitions on which injunctions were granted under the provisions of 8 (b) (4) (A).

Senator PEPPER. Now, Mr. Denham—

Mr. DENHAM. Under the provisions of 8 (b) (4) (A) and (B), of the six petitions filed, two were granted, one was denied, and three were disposed of otherwise, and of the two that were filed under the provisions of 8 (b) (4) (C), two were instituted and two were granted,

and in the case of the one petition filed under the provisions of 8 (b) (4) (C) and (D), that one case is still pending.

Senator PEPPER. Now, will you go back to tell what under 8 (b) (4) (A)——

Mr. DENHAM. Twenty-seven petitions were filed.

Senator PEPPER. Twenty-seven. How many were granted?

Mr. DENHAM. Fifteen.

Senator PEPPER. All right.

Now, let us read section 8 (b) (4) (A) :

It shall be an unfair labor practice for a labor organization or its agents—that is 8 (b) ; this is (4)——

to engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is——

now, here is (A)——

forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other person to cease using, selling, handling, transporting or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person.

How do you distinguish the case I have put to you from the very clear language of that statute?

Mr. DENHAM. By the provisions of 8 (c).

Senator PEPPER. 8 (b) ?

Mr. DENHAM. 8 (c), plus the distinction made by Judge Rifkind that——

Senator PEPPER. I am not talking about—let us read (c) then.

Mr. DENHAM. Let me just finish, won't you please, sir? We utilize the provisions of 8 (c), plus the decision by Judge Rifkind that under circumstances that I have described in the Metropolitan Architects case the other party is not another employee, and we have taken the position that under the circumstances such as you have described and in general, he is not another employee.

Senator PEPPER. You mean not another employer, do you not?

Mr. DENHAM. I mean not another employer, I beg your pardon, another employer.

Senator PEPPER. Let us look at that. Let us take the situation of newspaper A in city X publishing a newspaper, having no relationship with publisher B publishing a newspaper in the same city, and the newspaper publisher A has a strike of his printers.

He is having a difficulty in getting his paper out. He calls up the proprietor of newspaper B and says "Will you print my paper for me while the strike is going on?" And he says, "Yes; I will be glad to print it. Send your material over and we will print it."

They print it one day, and then the next morning or the night following the first day the employees of publisher A go over and wait upon, go and talk to, go and attempt to induce or to encourage employees of plant B to strike, not to handle that print that comes over there, that material, not to print it, and now you tell us, you and your associate counsel, that newspaper B is not another employer and is different from publisher A.

Mr. DENHAM. Not according to our concept of the meaning of the law as defined by Judge Rifkind, whose decision we have adopted.

Senator PEPPER. And you do not think the basis of Judge Rifkind's decision was this statement of facts contained in your analysis?

Mr. DENHAM. Senator Pepper, that is the position we have taken. Now, whether it is right or wrong is another matter. That is what we have taken. If the courts want to overrule us——

Senator PEPPER. All right.

Mr. DENHAM. Then we will take a different position, but we have followed the only judicial decision that we have available to us.

We believe that it is sound, and we intend to continue to follow that general principle.

Senator PEPPER. And notwithstanding the facts that you find that there is no contractual relationship previously existing between A and B, you are going to continue to hold that B is not another employer under Judge Rifkind's decision until it is reversed?

Mr. DENHAM. That is exactly right. Our general policy and principle has been to follow along that line. Now, then, there may be special circumstances in any case which will take it into a somewhat different postulate.

Senator PEPPER. Now, I believe you said you filed 27 petitions for injunctions.

Mr. DENHAM. That is right.

Senator PEPPER. Under 8 (b) (4) (A), did you not?

Mr. DENHAM. 8 (b) (4) (A); yes, sir.

Senator PEPPER. Well, give us 8 (b) (4) (A), and will you tell us, in the first place, you know what is generally called a secondary boycott for economic reasons, do you not?

Mr. DENHAM. I think so.

Senator PEPPER. All right, tell us whether any of those 27 cases were cases of economic boycotts or what might be called an economic boycott.

Mr. DENHAM. Oh, yes; there are undoubtedly some of them.

Senator PEPPER. Will you give us the facts?

Mr. DENHAM. Well, I shall have to go through about 154 pages that you have here in this document that is being supplied you, and get out the facts.

Senator PEPPER. Well, don't you remember——

Mr. DENHAM. One at a time. No, sir. I do not remember.

Senator PEPPER. You remembered very clearly the case of Judge Rifkind, you and your associates, and you were able to turn right to that.

Mr. DENHAM. I have got it right here; yes.

Senator PEPPER. Somebody had to find it evidently. You did not have the page open to that page.

Mr. DENHAM. If you will be kind enough, sir, to give me the pages that you want me to refer to——

Senator PEPPER. Well, you are the general counsel, and I assume you know something about it.

Mr. DENHAM. I know a lot about it.

Senator PEPPER. Then, let us hear it.

Mr. DENHAM. I do not know the details of every one of the 56,000 cases we have handled in the past 16 months.

Senator PEPPER. I did not say anything about 6,000 cases.

Mr. DENHAM. 56,000.

Senator PEPPER. I did not ask you about 56,000.

Senator TAFT. Senator, give him the kind of lead with respect to the sort of case you wanted.

Senator PEPPER. I asked him for one of 27. I asked if he knows what the economic boycott was, and he said yes, he had filed 27 petitions for injunction in that category, and I asked him to give us the facts of some of them.

Mr. DENHAM. I can give you some of them; yes, sir. I can give you the Sealright case, for instance.

Senator PEPPER. What were the facts in that case?

Mr. DENHAM. Well, just give me time to pick it out of this, will you please, sir, and I shall be very delighted to give it to you.

Senator PEPPER. Well, you are the fellow who got the injunction. I thought you might remember some of these cases.

Mr. DENHAM. I do; I can remember some of them, but I do not think there is any human being who can remember all of the facts about all of the cases that have gone over the desk when they have gone over in the tremendous volume that we have had to deal with in the National Labor Relations Board in the general counsel's office in the past 16 months.

Senator PEPPER. Well, I am not—

Mr. DENHAM. The Sealright Pacific case, the charge was brought by the Sealright Pacific, Ltd., Los Angeles, Calif., against local 388 of the Printing Specialties and Paper Converters Union, A. F. of L. It bears No. 21-C-C-13.

It was brought under the provisions of section 8 (b) (4) (A). The facts, roughly, were that in October 1947, local 388 was bargaining agent for the employees of Sealright, which is a Los Angeles manufacturer of milk-bottle caps and paper containers, and they went out on strike over a wage dispute.

Shortly thereafter local 388 initiated the practice of having its pickets follow Sealright's trucks which were loaded with out-bound shipments to the terminals where the finished goods were to be transferred to a common motor carrier.

On arrival at a terminal the pickets would surround the truck, tell the employees of the terminal, who, by the way, were members of the teamsters, that the trucks contained hot cargo. They would ask them not to handle it.

Local 388 also had its pickets meet in-bound shipments at a public wharf where they picketed freight cars being loaded by members of the CIO longshoremen, and in that manner they caused the longshoremen to cease work.

Senator PEPPER. What is that? Caused the longshoremen to what?

Mr. DENHAM. Cease work.

Senator PEPPER. All right.

Mr. DENHAM. By this means, by means of this type of picketing and strategy, local 388 effectively cut down Sealright's in-bound and out-bound shipments.

An 8 (b) (4) complaint issued, and a 10 (1) injunction proceeding was instituted in the California district court, the United States District Court for the Southern District of California.

The district court issued the injunction, and its issuance was sustained by the Ninth Circuit Court of Appeals.

It may be well to state, however, that subsequently a trial examiner heard the case and recommended the dismissal of the complaint. His recommendation is now before the Board on exceptions by the general counsel.

Senator PEPPER. Was Judge Rifkind—what was Judge Rifkind, a district court or circuit court judge?

Mr. DENHAM. This has nothing to do with Judge Rifkind.

Senator PEPPER. I am aware of that.

Mr. DENHAM. He was a district court judge.

Senator PEPPER. That is what I asked you.

Mr. DENHAM. Yes, sir.

Senator PEPPER. He was a district court judge.

Mr. DENHAM. Yes, sir.

Senator PEPPER. In the Federal court?

Mr. DENHAM. Oh, yes.

Senator PEPPER. And you gave me Judge Rifkind's decision as a precedent here a while ago, and relied upon it, said you had relied upon it?

Mr. DENHAM. Yes.

Senator TAFT. For a different kind of case, Senator.

Senator PEPPER. Senator, will you just excuse me—that is what I want to develop, whether they are different. They are different. That they are different kinds of cases is what I would like to have developed.

Mr. DENHAM. No relation between the facts. There are no similarities at all.

Senator PEPPER. I thoroughly agree, but that is what you have not been willing to agree to. In the case that you have just put, what happened was the employees, as I understand it, of employer A, who were on strike, who went over and induced the employees of some other employer not to handle the goods of employer A, did they not? They persuaded them, they appealed to them, not to handle them.

Mr. DENHAM. That is right.

Senator PEPPER. Why was not that free speech under 8 (c)?

Mr. DENHAM. It may have been a type of free speech, but it also carried with it the inducements which we felt—

Senator PEPPER. But you told me a little while ago, Mr. Denham, that you construed that 8 (c) applied to employees, and that you reconciled their right of free speech with 8 (b) (4), and I have been trying for half an hour to get you to say that there was a difference, that when employees who had a right and a self-interest to do what they did went over and attempted to persuade, by free speech, some other employees to strike, you bring an injunction against them, and yet you were telling me a little while ago that on the basis of the Rifkind decision that you did not do it.

Mr. DENHAM. The sad part of your illustration is that it is not in point.

Senator PEPPER. Well, what did the employees in the California case that you have just told us about do? Will you read again what you said they did?

Mr. DENHAM. I shall be very glad to.

Senator TAFT. Let me ask one question.

Senator PEPPER. Excuse me.

Senator TAFT. May I ask one question?

Senator PEPPER. No; if you will excuse me, I want to get this point clear.

Mr. DENHAM. Local 388 initiated the practice of having its pickets follow Sealright trucks which were loaded with out-bound shipments to the terminals, where the finished goods were to be transferred to a common motor carrier, and that is quite different from processing. There is no relationship between them.

On arrival at the terminal the pickets would surround the truck and tell the employees of the terminal, who were members of the teamsters, that the trucks contain hot cargo, and ask them not to handle that.

Senator PEPPER. All right. Is there anything wrong with—

Mr. DENHAM. Local 388 also had its pickets meet in-bound shipments at the public wharf, and there they picked the freight cars which were being loaded by members of the CIO longshoremen, thereby causing the longshoremen not to handle the goods. By this means of type of picketing strategy local 388 effectively cut Sealright's in-bound and out-bound shipments, which was a purely secondary boycott.

Senator PEPPER. But the free speech section, 8 (c), did not protect those employees from your injunction against their attempting to persuade some fellow-workers to do something that was in their common interest, they thought.

Mr. DENHAM. It involved picketing in these cases, Mr. Pepper.

Senator PEPPER. It says—

Mr. DENHAM. Picketing is a different matter.

Senator PEPPER. "Engage in or to induce or encourage—"

Mr. DENHAM. Yes.

Senator PEPPER. "The employees here." There are separate provisions that deal with picketing.

Mr. DENHAM. In the atmosphere—

Senator PEPPER. Was there anything unlawful in the type of picketing that they did there? Have you got—

Mr. DENHAM. What do you mean "unlawful"?

Senator PEPPER. Where is there anything in the Taft-Hartley law that makes it unlawful and subjects them to your injunction for the kind of picketing that they did in that case?

Mr. DENHAM. In certain picketing; certain types of picketing.

Senator PEPPER. Well, in that particular type of case.

Mr. DENHAM. Apparently so. I wish I had the court's decision which, unfortunately, I do not have here, which dealt with it more fully. But in the court's decision on the matter the court dwelt on this subject very fully; Judge Healy, I think it was.

Senator PEPPER. Was that an illegal picketing in that case?

Mr. DENHAM. It was so held; yes.

Senator PEPPER. What made it illegal—what made the action illegal, was the fact that there was a secondary boycott prohibition in the Taft-Hartley law; isn't that true?

Mr. DENHAM. Yes; that is true.

Senator PEPPER. Of course it is.

Mr. DENHAM. But inherent in certain types of picketing there are threats and coercion.

Senator PEPPER. It did not say anything about threats and coercion here. It says "attempts to induce or persuade or encourage."

Mr. DENHAM. All right.

Senator TAFT. May I ask one question?

Senator PEPPER. I yield.

Mr. DENHAM. Yes.

Senator TAFT. Mr. Denham, freedom of speech does not extend to encouraging a man to commit a crime, does it?

Mr. DENHAM. Not that I know of.

Senator TAFT. Urging a man to commit a crime?

Mr. DENHAM. Not that I know of.

Senator TAFT. Freedom of speech, therefore, does not extend to urging people to strike against an employer with whom they have no quarrel in order to injure a third persons, does it?

Mr. DENHAM. We have held, Senator Taft, that the freedom-of-speech provision is liberally applied, but that it does not, as you say, protect a man against the urging of the commission of an unlawful act.

Now, in the case such as Senator Pepper has illustrated, where you have a comity of interests, where practically one is agreeing to act as the agent of the other in producing his goods when he cannot do it, we have consistently found there and held there that the Rifkind theory is an applicable one, and that the free speech, the freedom of speech, that exists with reference to the employees of a primary employer, exists.

Senator TAFT. Yes; but my point is this: Here is an employer who is having a quarrel with his employees. Here is another employer who has no quarrel with his employees. These employees of the second employer strike, not because they have a quarrel with their employer, but to injure a third party, namely, another employer with whom they have no relations whatever.

Mr. DENHAM. They are getting into neutral territory.

Senator TAFT. Exactly. Now, that is what is not protected by, I take it, the Taft-Hartley law.

Mr. DENHAM. That is right, you are getting into neutral territory.

Senator TAFT. Yes. It seems to me that getting someone, persuading him to commit that tort—it is not a crime, it is a tort; it is an injury of the business of a party with whom they have no quarrel whatever, I do not see how freedom of speech can prevent that being the same kind of a tort, the same kind of a wrong, as that committed by the employees who strike without any cause.

Mr. DENHAM. Well, it is the old idea that we were all taught in law school that while we all have certain freedom of speech, we must account for how we use it; and the fellow who stands up in the middle of a theater and cries out "fire!" is going to be held to account for what he does.

Senator TAFT. And the Rifkind decision, I take it, the opinion, in effect, is that the employees of the secondary employer are really striking against the first employer. The first employer to all intents and purposes is his agent, and talking about an ally, I do not know what "ally" means, unless it means an agent, and in effect says that "there is nothing illegal in the whole business."

Mr. DENHAM. No, sir; when you get out of neutral territory—



Senator TAFT. Consequently, the urging to do it or the inducing to do it is not any more a crime than the strike itself. I do not quite see that the freedom of speech has direct application because I do not think it applies to a case where you urge a man to do an unlawful act.

Mr. DENHAM. I might, by the way—

Senator PEPPER. Do you agree with Senator Taft, Mr. Denham? You agree with the last statements that Senator Taft has made?

Mr. DENHAM. Well, in the main, yes, when you get into neutral territory; when you get outside of neutral territory, you have no protection.

Senator PEPPER. A right, let me go back now just a minute.

Mr. DENHAM. You have raised a question, and I want to get it out of the way now so that I can get this book away in front of me, and this is quoted from the conference report on page 45, paragraph 5, subject "Applicability of 8 (c) to all concerned." The report reads:

Both the House bill and the Senate amendments contain provisions designed to protect the right of both employers and labor organizations to free speech. The conference agreements adopts the provisions of the House bill in one respect.

Senator PEPPER. Now that you have had the benefit of Senator Taft's opinion, and counsel, I want you to see whether you go back to your former position or not.

I started off by asking you the question as to whether or not the free-speech section, 8 (c), gave employees immunity from the penalties of the secondary-boycott provision to this statute when they induced the strike.

You have been telling me up until Senator Taft intervened a minute ago, you have been telling me that just to go over there and persuade them to strike was not any offense. There was not any violation of the boycott section.

Now, Senator Taft comes along and says, does free speech authorize anybody to commit a crime, and that since the secondary boycott is forbidden, would the right of free speech authorize an employee to bring about a secondary boycott.

Now, you agree with Senator Taft?

Mr. DENHAM. I very much regret the Senator's inconsistency of the statement of the basic case here because you have been talking about a certain case where a printer who sends his work over to printer B, and printer A, his employees go to the employees of printer B and say, "Here, this is a 'hot cargo' or 'hot merchandise' because we are striking this fellow and you should not do it."

Now, then, under the facts in those cases printer B is not in the neutral territory which is required for the protection of a person under the secondary-boycott provision.

If we can stay outside of that kind of area, Senator—

Senator PEPPER. How can it be other than—how can employer B be other than another employer? Senator Taft, in the case he put here a minute ago, said, in the Judge Rifkind case, the employees were in substance striking against employer A because they had been working on commodities that A had sent over to B, and therefore they were really employees of A, not B, and I put to you a case where they are totally independent employers, and you still try to rely upon the Rifkind case.

Mr. DENHAM. I still do; yes, sir. So far as we are concerned, that closes it with me.

Senator PEPPER. All right. But was the Rifkind case decided before the California case or after?

Mr. DENHAM. I cannot tell you. I think the Rifkind case was decided before the Sealright case, but there is no applicability between the two.

Senator PEPPER. So you did not desist in the Sealright case because of the opinion in the Rifkind case, did you?

Mr. DENHAM. The one has no bearing on the other.

Senator PEPPER. In your opinion.

Mr. DENHAM. In my opinion: yes, sir. And, after all, someone has to make a decision on the thing. If we are wrong, why then, we are wrong, and the courts will correct us.

Senator PEPPER. Yes. Now, Senator Taft asked you whether the freedom-of-speech section, that is, 8 (c), applies where there is a clear-cut case of employees inducing a boycott, leaving out any picketing. Assume that they do it by nothing more than speech. I want to ask you whether there is any kind of case which would be in violation of the boycott section when they do not do anything but use speech, but nevertheless induce the employees not to handle or work on the goods of employer A.

Mr. DENHAM. I am inclined to think we have had cases of that sort—I do not recall them in detail—which fall into that general category and where injunctions have been issued. With the number that are before me, I cannot give them to you. Mr. Johns or Mr. Findling may recall them. I do not.

Mr. FINDLING. If all there was, Senator, was speech, it would be protected by 8 (c).

Senator PEPPER. In spite of the fact that the speech induced the employees to strike and brought about the boycott?

Mr. FINDLING. That is correct. The peaceful picketing which has been said by the court to be free speech but in some circumstances has presented a special problem, a very difficult problem, as, of course, you are aware the Supreme Court has said peaceful picketing is free speech.

Senator PEPPER. What was the basis, Mr. Findling—you are an able lawyer; you appear to be very candid in your answers here. What was the date of the California decision that went to the circuit court of appeals and where Mr. Denham's injunction was affirmed?

Mr. FINDLING. It felt that picketing was not the same as free speech in all the circumstances.

Senator PEPPER. What kind of speech and what kind of picketing did they employ?

Mr. FINDLING. Simple, peaceful picketing.

Senator PEPPER. They followed after the trucks on the public streets; they walked around the trucks and addressed themselves to these others?

Mr. FINDLING. They carried picket signs.

Senator PEPPER. They carried picket signs?

Mr. FINDLING. Yes, sir.

Senator PEPPER. It was not any question of picketing in the mass sense that nobody could get in there; no violence?

Mr. FINDLING. No violence.

Senator DOUGLAS. Were there any threats of violence?

Senator PEPPER. No assaults?

Mr. FINDLING. Nothing but peaceful picketing.

Senator PEPPER. All they did was walk down the streets, walk up to those employees and address themselves to them, petition them and hold some banners over their heads with some words on them appealing to them, and yet Mr. Denham got an injunction against them under the Taft-Hartley law.

Mr. FINDLING. On the theory that peaceful picketing was not in all circumstances free speech. We have got the opinion of the Supreme Court in the—

Senator PEPPER. Mr. Findling, among our constitutional guaranties is not the right to petition and the right of assembly regarded as basically and fundamentally like the right of free speech?

Mr. FINDLING. Certainly.

Senator PEPPER. Is not the right to walk down the streets without doing anything, any violence, is not that one of the admitted rights of anybody in this country?

Mr. FINDLING. I would say so.

Senator PEPPER. If he wants to follow a truck, is there anything unlawful about that?

Mr. FINDLING. Not if he wants to follow a truck, sir.

Senator HUMPHREY. It seems to me that sandwich boards are out, if we keep this up.

Mr. DENHAM. They could be, and some of them have been declared out.

Senator PEPPER. I think that probably clarifies the point I have been so long in trying to clarify.

Mr. FINDLING. Would you be interested in the brief we filed in the court of appeals on the subject? I think that explains it more clearly than I can.

Senator PEPPER. Now, you have given me one of the 27 cases in which Mr. Denham says he filed injunctions against the workers under 8 (b) (4) (A).

Mr. FINDLING. That is the most extreme case we have had.

Senator PEPPER. Very well. Now, let us go back, Mr. Denham, to something a little more fundamental. Will you tell us what the Wagner Act provided?

Senator TAFT. What act?

Senator PEPPER. What the Wagner Act provided.

Mr. DENHAM. I have to have a copy of it in front of me and read it, Senator Pepper, because it provided a number of things.

Senator PEPPER. Did it?

Mr. DENHAM. What do you mean; in what respect?

Senator PEPPER. I want you to tell me, Mr. Denham, as general counsel for the National Labor Relations Board and as a man who for a good many years was examiner under the Wagner Act—how many years were you examiner?

Mr. DENHAM. Ten years.

Senator PEPPER. Ten years. I should suppose in 10 years you developed some fair acquaintanceship with the Wagner Act; did you not?

Mr. DENHAM. Oh, yes.

Senator PEPPER. I ask you a fair question, and I think the relevance of the question will appear. Tell the committee, please, what the Wagner Act provided.

Mr. DENHAM. Senator Pepper, I would not attempt that under any circumstances unless I had a copy of it in front of me or could read or digest it as I read. The Wagner Act provided many things. If you will provide me with a copy, I shall be very glad to read you a digest of it into the record.

Senator PEPPER. That is just the question I want to raise, as to how many things the Wagner Act did provide for and how many things in contrast the Taft-Hartley bill provided for.

Mr. DENHAM. If you will get me what category, in what respect it provided, I can come pretty near telling you.

Senator PEPPER. Mr. Denham, it is shocking to me, it is difficult for me to wonder whether you want to be candid or not.

Mr. DENHAM. It is my great desire to be candid, Senator Pepper.

Senator PEPPER. Do you not know what the Wagner Act provides, after being 10 years an examiner and being a year and a half as general counsel of the National Labor Relations Board?

Mr. TAFT. Mr. Chairman, I think the line of questioning is improper. It is perfectly obvious.

Mr. DENHAM. I object to it.

Senator TAFT. We all know what the Wagner Act provides. How can you sum up the whole Wagner Act. Why does not the Senator ask him some particular provision which he is asking about?

Senator PEPPER. Senator, I have the privilege of asking the questions that I think are relevant.

Senator TAFT. I think it is an improper question. I do not think it is a relevant question at all. We all know the Wagner Act. We have all got it here. If the Senator wants to ask the witness some particular application of the Wagner Act, that is reasonable.

Senator PEPPER. The general counsel for the National Labor Relations Board seems to have considerable reluctance in telling us what it provides.

I want you to tell me, Mr. Denham, what does the Wagner Act provide.

Mr. DENHAM. The best thing to do is probably start in and read it.

Senator PEPPER. All right, let us turn to it, leaving out the preliminary sections of it.

Mr. DENHAM. I will leave out the "Be it enacted."

Senator MORSE. Will the Senator from Florida yield?

Senator PEPPER. I yield.

Senator MORSE. I want to know the purpose of the Senator's question. Is the Senator seeking to test this witness' power of recollection or his reading ability, which?

Senator PEPPER. I think there might be some reason to doubt both.

Mr. Denham, I will ask you, then, if you do not have a copy of the Wagner Act before you—let us start off.

Mr. DENHAM. I think Senator Neely has handed me a copy, or it was Senator Douglas.

Senator NEELY. I did not furnish you any document of any kind. You do not need it. You have been too well trained.

Mr. DENHAM. Thank you, Senator.

Senator NEELY. And for this particular purpose, too, in my opinion.

Senator PEPPER. All right, section 1 contains findings and policies under the Wagner Act. That is general declaration of principle. I think it might be well to read maybe a paragraph of that.

The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining led to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce—

and so on.

It particularizes the ways by which that occurred. Then it says:

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, tends to aggravate recurrent business depressions by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Then it refers to experience. Then it says:

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred \* \* \*

Now let us see how:

By encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Now then, on page 2 appears the definitions, and on page 3 there is set up the National Labor Relations Board, and section 4 defines something of the details about the members' salaries and so on.

Now the effective section, I believe you would agree, of the Wagner Act, is section 7.

Mr. DENHAM. It begins there; yes, sir.

Senator PEPPER. All right:

Rights of employees: Employees shall have the right to self-organization to form, join, or assist labor organizations to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Now that is the charter of right, the basic charter of right that that act conferred upon the workers; is it not?

Mr. DENHAM. That is right.

Senator PEPPER. Then it provided in section 8—

Senator TAFT. Do you find the same charter in the Taft-Hartley Act?

Senator PEPPER. Excuse me:

It shall be an unfair labor practice for an employer (1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

All that is protecting the workers in the enjoyment of the rights conferred upon them in section 7; is it not?

Mr. DENHAM. That is correct.

Senator PEPPER. Subparagraph 2:

It is an unfair labor practice for an employer to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it—

and then there is a proviso there.

Then subparagraph 3:

By discriminating in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in any labor organization.

Then No. 4:

To discourage or otherwise discriminate against an employee because he has filed charges or given testimony under this act.

5: To refuse to bargain collectively with the representatives of his employees subject to the provisions of section 9.

Then it confers upon the workers the right to select their own representatives to bargain with the employer; does it not?

Mr. DENHAM. Yes, sir.

Senator PEPPER. Now is not that substantially all that the Wagner Act provides?

Mr. DENHAM. Well, it provides machinery for carrying out the designation of representatives and for the prevention and creation of unfair labor practices.

Senator PEPPER. All it says is that machinery is provided. It makes it the duty of the Board when employees want to associate themselves together to petition for the right to have an election, they were protected in the having of that election and then the management was required to deal with representatives of the employees chosen in such an election. Is that not true?

Mr. DENHAM. That is right.

Senator PEPPER. And there were no unfair labor practices provided in the Wagner Act except unfair labor practices on the part of the employer which would interfere with, (1) the right of the workers to organize, and the right of the workers to bargain collectively, and the right of the workers to select their own representatives and to hold elections to that end.

Mr. DENHAM. In substance that is correct; yes.

Senator PEPPER. All right. Now that was a relatively simple and clear act of the Congress in the management-labor field; was it not.

Mr. DENHAM. Insofar as it went it was very clear and quite simple.

Senator PEPPER. Very clear and simple. It did not set out to regulate labor unions; did it?

Mr. DENHAM. Well, now, I think it speaks for itself.

Senator PEPPER. Well, I am asking you. You are an expert.

Mr. DENHAM. I still think it speaks for itself.

Senator PEPPER. Well, did it require the unions to file financial statements?

Mr. DENHAM. Oh, no.

Senator PEPPER. Did it forbid—

Mr. DENHAM. It required absolutely nothing of the unions except to file petitions with the Board when they wanted to have elections for the designation of representatives.

Senator PEPPER. That is right.

Mr. DENHAM. And then under the regulations of the Board, certain other requirements were set up such as those which required a showing that would be sufficient to justify the Board in putting its wheels or machinery into motion.

Senator PEPPER. That is right. It did not require anything of unions; did it? It just gave them the right to collective bargaining, the right of organization, the right to choose their own representation and the right to be free to do those things.

Mr. DENHAM. It required nothing of them and imposed no responsibilities on them.

Senator PEPPER. That is exactly right. Now, what did it require of the employer?

Mr. DENHAM. Do you mean according to the language of the law or its application, sir?

Senator PEPPER. I am speaking about the Wagner Act. You can add anything to it you wish. I say, what did the Wagner Act require of the employer?

Mr. DENHAM. It set out in five subsections of section (a)——

Senator PEPPER. What did it require?

Mr. DENHAM. Which requires that they refrain from interfering with, restraining or coercing employees in the exercise of the rights guaranteed in section 7, to refrain from dominating or interfering with the formation or administration of labor organization or contributing financial or other support to such organizations, with certain provisions that permitted them to meet with their individual employees.

It required them to refrain from discriminating in regard to the hire and tenure of employment, or any term or condition of employment to encourage or discourage membership in any labor organization.

It provided the authority for the execution of a closed-shop agreement——

Senator PEPPER. It provided what? It required what?

Mr. DENHAM. Or any of the relative degrees of the closed-shop agreement. I say it permitted——

Senator PEPPER. It did not say anything about the closed shop, did it?

Senator TAFT. Oh, yes.

Mr. DENHAM. The proviso in section 83 very definitely does that, sir.

Senator PEPPER. It did not make it mandatory; did not forbid it.

Mr. DENHAM. I did not say it made it mandatory. It permits it, and it requires the employer to refrain from discharging or otherwise discriminating against an employee because he has filed charges with or given testimony under the act, filed charged or given testimony under the act, and it requires the employer to not refuse to bargain collectively with the representative of his employees who has been chosen under the provisions of section 9 (a) of the act which section sets out the machinery and the requirements for the selection of a bargaining representative such as is contemplated in section 85.

Senator PEPPER. Here is the question I want to ask you, Mr. Denham.

Was there any affirmative requirement of the employer in the Wagner Act, except that he bargain collectively with the duly chosen representatives of labor?

Mr. DENHAM. In the language of the law, I think we must let it speak for itself.

Senator PEPPER. Well, was there any other requirement——

Mr. DENHAM. There it is.

Senator PEPPER. Any other affirmative requirement upon management.

Mr. DENHAM. He must bargain collectively with the employees.

Senator PEPPER. I said that. I asked, is there any other affirmative requirement?

Senator TAFT. Mr. Chairman, he has answered that. He answered the five things that he had to do.

Senator PEPPER. Mr. Chairman, I insist upon my rights to interrogate the witness, and I am getting tired—

Senator TAFT. I think when the witness has given an answer he is not entitled to ask the same question over again, which is what he is now doing.

Senator PEPPER. We have sat here for days and listened to a Republican protraction, and when I am trying to get an intelligent witness, an expert, a man who is general counsel, to answer these questions, the Senator keeps interfering.

Senator TAFT. And I shall continue to do so if the Senator pursues his line of questioning.

Senator PEPPER. Well, all right, he is going to pursue it, so just get ready.

I started out to indicate I want to show for this record that this material has not been gone over before by a competent witness, that we took a simple Wagner Act that imposed relatively one single—I have asked the witness if there were more than one—mandatory requirement on the employer, and that is to bargain collectively with the duly chosen representatives of labor and let them alone and not discriminate against them because they were unionized.

Senator TAFT. He just listed five requirements, reading them from the act.

Senator PEPPER. Every one of them was a negative prohibition against him interfering. The employer did not have to do those things. The law simply says, "Let them alone; let them hold their election and let them select their representatives. All the duty you have got is to let them alone and treat them fairly and do not discriminate against them and deal with them collectively when they come to deal with you."

Is not that substantially what the law said, Mr. General Counsel?

Mr. DENHAM. The reading of the law, the letters, the words, that were put on the page would indicate that.

Senator PEPPER. Yes.

Mr. DENHAM. The application and the administration of the law over the past 12 years was quite to the contrary, sir.

Senator PEPPER. So, upon that act,—it was the Wagner Act that the Taft-Hartley amended, was it not?

Mr. DENHAM. Yes, sir.

Senator PEPPER. All right. Now, that is quite a different piece of legislative machinery, is it not?

Mr. DENHAM. The Taft-Hartley Act?

Senator PEPPER. Yes. How many mandatory requirements would you say there are of both labor and management in that law, the Taft-Hartley law?

Mr. DENHAM. May I consult it, sir?

Senator PEPPER. Yes, I will be glad to have you do so. For the benefit of this record I wish you would give us a brief summary of what are the affirmative mandatory requirements upon management and labor.

Mr. DENHAM. I will start in, if you do not mind, with the declaration of policy which is contained in the last paragraph of section 1. I might say that the preceding sections are rather different from the early sections of section 1 of the Wagner Act, but they go into the same general territory.



Senator PEPPER. And the general additions there are related to labor, as a general rule, to employees, I believe?

Mr. DENHAM. Well, one paragraph, I think would indicate the purpose which was apparently behind the enactment of this act—two paragraphs, and I will read them from section 1 [reading]:

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees.

Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities which impair the interest of the public in the free flow of such commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.

Senator PEPPER. Will you allow me to interrupt right there, Mr. Denham?

Mr. DENHAM. Yes, sir.

Senator PEPPER. Now, there is the very declaration—what page were you reading from?

Mr. DENHAM. From page 2.

Senator PEPPER. That is in the declaration of policy?

Mr. DENHAM. That is right.

Senator PEPPER. That was an indication that this act intended to regulate labor-union practices.

Mr. DENHAM. I would say, Senator, the reaction I would get from it—I do not know what the intent was in your mind or in the minds of any other members of the committee, but from reading the document and from my familiarity with it, such as it is, I would arrive at the conclusion that this was designed as something of a code to regulate within certain limits labor relations, industrial relations in general.

Senator PEPPER. Now, let me interrupt you right there. That is the point I want to make.

Was this Taft-Hartley law a shift in theory from the Wagner Act which did confine itself to regulating labor-management relations, and become an act to regulate labor unions, and in some respects, management?

Mr. DENHAM. I do not think so, no. I think if you want to say that the Wagner Act was a law designed to regulate labor-management relations, I would say this act is also an act to regulate labor-management relations, but to do so in a broad and two-sided manner so as to regulate all of the parties to labor-management relations.

Senator PEPPER. All right, the Taft-Hartley law regulates the relationships of employer to employee, does it not?

Mr. DENHAM. It regulates practically all of the parties in the labor-management relations.

Senator PEPPER. You just about said it. It has to do with almost every aspect of the regulation of the labor union.

Mr. DENHAM. Well, I would not put it that way, no.

Senator PEPPER. Well, a great many of them.

Mr. DENHAM. I cannot agree with you on that. I think that is much too narrow in application.

Senator PEPPER. All right, let us see, then: let us take this. In the Wagner Act, was there anything said about the right of the employee not to join the union?

Mr. DENHAM. No, sir.

Senator PEPPER. No protection against his union if they get him out or put him in unduly; it was not affected?

Mr. DENHAM. As I recall, the Wagner Act was completely silent on that, sir.

Senator PEPPER. Completely silent, all right. Was there anything in the Wagner Act that gave the National Labor Relations Board or anybody else the right to determine what fees should be charged labor union members for admission to the union?

Mr. DENHAM. I do not recall that that question was ever allowed to be raised.

Senator PEPPER. Was there anything in the Wagner Act that required the union officers to sign any kind of affidavit?

Mr. DENHAM. I take it you are referring now to the non-Communist affidavit.

Senator PEPPER. The non-Communist affidavit.

Mr. DENHAM. No, sir, there was nothing of that sort.

Senator PEPPER. Was there anything in the Wagner Act to require the unions to file lengthy reports with the National Labor Relations Board—

Mr. DENHAM. Of course, they do not file them with the National Labor Relations Board. They file them with the Secretary. I might interpolate right here, Senator—

Senator PEPPER. You are right, the Secretary of Labor.

Mr. DENHAM. If whatever legislation comes out of this picture, the provision for the filing of non-Communist affidavits and also the provision for filing these statements are retained, I would like to suggest to the committee the desirability of having them all filed in the same place. It will make it much easier for everybody.

The CHAIRMAN. Thank you.

Senator PEPPER. Now, did the Wagner Act require that any labor organization file its name and its address and principal place of business with any agency of the Government, the National Labor Relations Board?

Mr. DENHAM. The Wagner Act required nothing of the labor organizations by way of filing anything except when it wanted to file a charge which would initiate an unfair labor practice proceeding or a petition which would initiate a representation proceeding.

Senator PEPPER. They did not have to show the names, titles, compensation, and allowance of its three principal officers, and of any of its other officers or agents whose aggregate compensation and allowance for the preceding year exceeded \$5,000 and the amount of compensation and allowance paid to each officer or agent in said year.

They did not have to file anything about the manner in which the officers and agents caused to elect and were otherwise selected; did they?

Mr. DENHAM. I have answered that. No, sir.

Senator PEPPER. Did they have to file with any agency of the Government, showing the initial fees which new members are required to pay on becoming members of such organization?

Mr. DENHAM. No, sir.

Senator PEPPER. The regular fees or dues which the members are required to pay in order to remain members in good standing with such labor organization?

Mr. DENHAM. No; nothing of that sort was required to be filed.

I have answered those questions generally, Senator.

Senator PEPPER. So you are familiar with the provisions of section 9 (f), are you, just about a page of these things that labor unions are required to sign?

Mr. DENHAM. I am reasonably familiar with 9 (f), 9 (g), and 9 (h).

Senator PEPPER. Now, then, was it made a condition, a prerequisite to any labor organizations having access to the National Labor Relations Board that it file any such reports as that with any agency of the Government?

Mr. DENHAM. I thought I had answered the question. I regret if I have not, sir. No; there is nothing of that sort in the Wagner Act.

Senator PEPPER. Now, was there anything in the Wagner Act that forbade the parties upon free and fair collective bargaining to agree upon a closed shop?

Mr. DENHAM. Not if the labor organization was the representative of the employees within the meaning of section 9 (a) at the time the contract was made.

Senator PEPPER. Had you finished there?

Mr. DENHAM. Yes, sir.

Senator PEPPER. Was there anything in the Wagner Act that made it necessary for the labor union, the employees, to hold two elections, that is, an election for the union to become the representative of the workers, and another election in which a majority of all the eligible voters had to vote before they could enter into a contract as a matter of collective bargaining with a willing employer?

Mr. DENHAM. There is nothing in the Wagner Act which required such election as the second one which you have described.

Senator PEPPER. Was there anything in the Wagner Act that impaired in any way the prohibitions of the Norris-LaGuardia Act against injunctions being granted against labor unions?

Mr. DENHAM. The only provisions in the Wagner Act pertaining to injunctions were that which permitted the Board to obtain an injunction after it had entered a cease and desist order, and on the threshold of enforcement proceedings.

Senator PEPPER. In what court?

Mr. DENHAM. In the United States district court.

Senator PEPPER. Oh, no.

Mr. DENHAM. In the court of appeals—I beg your pardon.

Senator PEPPER. And before such an order, under the Wagner Act—before such a court order had been obtained, what had to precede it?

Mr. DENHAM. A cease and desist order from the Board.

Senator PEPPER. And the Board consisted of two members, did it not?

Mr. DENHAM. Under the Wagner Act; yes, sir.

Senator PEPPER. That meant two out of the three members had to have some kind of hearing, and, I presume, to have heard arguments, and then come to the conclusion a cease and desist order should exist, and then apply to the circuit court of appeals for enforcement of the cease and desist order. Then, the circuit court of appeals must find——

Mr. DENHAM. May I take you back a little bit, Senator, on your premise?

Senator PEPPER. Just tell me——

Mr. DENHAM. The Board did not, as a matter of course, hold hearings as a Board.

Senator PEPPER. I did not say hearings. I think I said "argument."

Mr. DENHAM. Well, argument. The Board did not even hear argument as a matter of course, and does not now.

The Board, after the trial examiner has conducted his hearing and all the parties have had their opportunity to present their evidence, have had their day in court, and examined and cross-examined witnesses, the trial examiner will then issue his intermediate report which contains his findings of fact and his conclusions of law, and they are served and then the parties may except to it if they want to, and that automatically puts the case before the Board.

Then, if they desire to file briefs with the Board, they have the privilege of doing so upon requesting that right, but they are not entitled, as a matter of right, to appear before the Board to engage in oral argument.

Senator PEPPER. Well, you mean oral argument?

Mr. DENHAM. That is what you said.

Senator PEPPER. What I am saying is this——

Mr. DENHAM. The Board goes through that process, then it goes through its decisional process; it enters its order, and then after the order has been entered and if the party does not comply with it, then the Board may initiate proceedings in the circuit court of appeals with a petition for enforcement, and if the Board is on sound ground and the court goes along with them, they will obtain an order enforcing the order of the Board.

Senator PEPPER. All right, under the Taft-Hartley law you individually as general counsel can appeal to a district court without any cease-and-desist order or any other action by the Board, and if that district court agrees with you, he can grant an injunction under the Taft-Hartley in several different cases, can he not?

Mr. DENHAM. Not only in several different cases, but under the provision of 10 (j), sir, the general counsel may, within his discretion, apply for an injunction in any case where it is indicated, after a complaint has been issued——

Senator PEPPER. Can you apply for an ex parte injunction?

Mr. DENHAM. That has been done.

Senator PEPPER. The courts have authority to grant it?

Mr. DENHAM. Yes, sir.

Senator PEPPER. Was anything like that possible under the Wagner Act?

Mr. DENHAM. No, sir.

Senator PEPPER. Under the Wagner Act before any kind of coercive order could issue from court, there had to be, did there not, some kind of complaint filed? There had to be, I presume, some action taken by the Board, either directly or through an examiner, to investigate the case; is that not true?

Mr. DENHAM. Yes, sir.

Senator PEPPER. And if the Board did not do it personally, the Board would appoint an examiner who would hear the case and then report back to the Board; is that correct?

Mr. DENHAM. That is right.

Senator PEPPER. And then the Board, was it customary for them to hear the parties in addition to the report of the examiner?

Mr. DENHAM. I beg your pardon; I did not get the question.

Senator PEPPER. Was it customary for the Board to hear the parties in addition to the report of the examiner?

Mr. DENHAM. Well, only if the Board was inclined to hear argument on it.

Senator PEPPER. The aggrieved party had a right to file exception to the examiner's report with the Board?

Mr. DENHAM. Oh, yes; they had a right to file exceptions.

Senator PEPPER. The aggrieved party had a right to file exceptions. Did he have a right to present evidence?

Mr. DENHAM. Not after the record had been made and the trial examiner had issued his report, unless there was some showing that some new facts had developed which were not available or were not known at the time of the hearing. Then he would have to make a special showing, just as you do in any other proceeding.

Senator PEPPER. The aggrieved party did have a right to file a brief with the Board?

Mr. DENHAM. Yes, sir.

Senator PEPPER. And the aggrieved party could apply for oral argument, and on occasion the Board did grant such requests; did it?

Mr. DENHAM. Oh, yes.

Senator PEPPER. And then it required the assent of two members of the Board before a cease and desist order could be issued by the Board?

Mr. DENHAM. Quite right.

Senator PEPPER. And then the Board, if the party refused to observe the cease and desist order of the Board, had to take the case not only to a district court but to a circuit court of appeals?

Mr. DENHAM. That is right.

Senator PEPPER. As a lawyer, do you know of any circuit court of appeals in the country that has fewer than three judges?

Mr. DENHAM. No, sir; most of them have more.

Senator PEPPER. Most of them have more?

Mr. DENHAM. As a matter of fact, I think all of them have more.

Senator PEPPER. There is a minimum of two judges on the circuit court of appeals that would have to concur and probably, usually, three or four would have to concur before the order for the enforcement of the cease and desist order of the Board would issue; is that not true? Is your answer "Yes"?

Mr. DENHAM. I am sorry ; I was engaged in something else, Senator. I want to apologize.

Senator PEPPER. That is quite all right. I will be very glad to ask the question again.

I say, in an ordinary case, it would require at least two circuit court of appeals judges—ordinarily, three, and in a good many instances four concurring in the judgment of the circuit court of appeals finding that there was substantial evidence in the Board's record to justify the Board's action before any injunction could issue under the Wagner Act?

Mr. DENHAM. The injunction, Senator, is the enforcement enforcing the Board order. That is what I take it you are referring to. That was a question in which the court was acting on the law and the facts as they had been developed.

The CHAIRMAN. Senator Pepper, Mr. Denham wishes a short recess. We will stand in recess for 5 minutes.

Senator MORSE. Mr. Chairman, I would like to make another suggestion. This witness has been on all day and most of yesterday. I would like to make the suggestion that the witness be excused for tonight, that we proceed with another witness and bring him back tomorrow to finish the examination.

Senator PEPPER. Mr. Chairman, I have no objection to that.

The CHAIRMAN. If we are to recess, we may then discuss the matter.

Mr. DENHAM. Yes, sir.

Senator PEPPER. We had agreed, the Senator from Oregon will recall, the subcommittee had agreed Mr. William Green would be here tomorrow morning if he arrived and if he chose to appear.

Senator MORSE. At 10:30.

Senator PEPPER. I do not want anything to interfere with the arrangement that the subcommittee made.

Senator MORSE. That is not until 10:30, and the hearing starts at 9:30.

Senator PEPPER. What did you say?

Senator MORSE. Mr. Green will not be here until 10:30, and we do not know whether he is going to testify or not. We convene at 9:30.

Senator PEPPER. Well, now, the only thing is: The Senator will recall that we took Mr. William Davis out of order at the request of the Senator from Oregon. Mr. William Green has come up here from Miami, leaving the meeting of his executive board in order to appear, and Mr. Denham is here in Washington.

I would rather that he would be called at a subsequent time if Mr. Green wishes to appear tomorrow, because we have told him, and the subcommittee agreed, that we would request that he be heard tomorrow.

Senator MORSE. I suggest, Mr. Chairman, that we call Mr. Denham at a subsequent time. The only point I want to make is that this examination has been strenuous. I think we should lean over backward in the direction of being exceedingly courteous to our witnesses from the standpoint of accommodating them as to the length of their testimony.

Senator PEPPER. I have no objection whatever to Mr. Denham desisting now and coming back at any time that might please the committee.

Senator MORSE. Excuse this witness tonight; excuse this witness tonight, and examine this witness tomorrow after we finish with Mr. Green. I so move, Mr. Chairman.

The CHAIRMAN. The suggestion made by Senator Morse is agreeable. Mr. Randolph is here, I believe.

Mr. Randolph, we have a witness here from Arizona, who is here at his own expense, and he says it will take just 10 or 15 minutes for him to complete his testimony, and it will accommodate everybody if we can hear him. I think if that is all right, Mr. Randolph, we should hear him.

Very well, Mr. Brinton.

#### STATEMENT OF DILWORTH BRINTON, REPRESENTING THE VETERANS' RIGHT-TO-WORK COMMITTEE

Mr. BRINTON. I am Dilworth Brinton, of Mesa, Ariz. I am 30 years of age. Mesa is a city of about 15,000.

In 1946 I was a member of the Veterans' Right-to-Work Committee. In 1948 I served as chairman of that committee. In appearing here I want to confine my remarks to one point, that point being the part of the administration's proposal that would reach into my State and do away with laws which we in Arizona have thought reasonable and proper.

In 1946 there was proposed an amendment to our State constitution which, if enacted, would prohibit the execution of compulsory closed-shop contracts. That is my exhibit A, which I just gave to the clerk, and which is to be passed out.

The CHAIRMAN. That is an amendment to the constitution?

Mr. BRINTON. Of the State of Arizona.

The CHAIRMAN. Has it been submitted?

Mr. BRINTON. It is an initiative measure voted on by the people, carried by a majority in every county of the State. That was subsequently tied up by litigation and was okehed by the State courts and also by the United States Supreme Court in January of this year.

The CHAIRMAN. Is it part of the constitution now?

Mr. BRINTON. It now is part of the Constitution of the State of Arizona.

The CHAIRMAN. And so recognized by the people?

Mr. BRINTON. And so recognized by the people. It says:

"No person shall be denied the opportunity to obtain or to retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual, or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization."

The CHAIRMAN. Was there a statutory law before the constitutional amendment?

Mr. BRINTON. After the constitutional amendment the legislature enacted a law to provide penalties for those who were violating this provision. That was under our referendum system again referred to the people and again in November 1948, in our last election. It was passed by an even larger majority by the people.

One important point there is that we voted for Mr. Truman by a large majority but also voted to regulate unions by a large majority,

showing we didn't give a mandate to Mr. Truman to do away with labor laws in the State of Arizona.

We feel that because Arizona wasn't alone in this, that this is an important matter. Altogether some 17 States have laws on the union shop, restrictions of some sort against the closed shop.

The CHAIRMAN. The problem then for us is, as far as Arizona is concerned, that State has a constitutional amendment against the closed shop and has a statutory law against the closed shop and our proposed bill waves aside the laws of Arizona, so far as the parenthetical expression is concerned; is that right?

Mr. BRINTON. Yes. We voted on this in two elections in a row, and both times we received a large majority, an even larger majority in the second instance than in the first.

Both times it was voted on by the people in the State and I might state that the vote against the bill was not as large as the membership in the labor unions in the State, showing that many people in the labor unions themselves felt it was necessary that they be protected from capricious acts of their union bosses.

The CHAIRMAN. Do you appear as a representative of the State of Arizona?

Mr. BRINTON. No; I represent the Veterans' Right-to-Work Committee. We organized because we found a number of instances where men could not join unions but could not get jobs unless they did join unions. So while we fought to get freedom we came home and found we didn't have it. That is why it was necessary to form this organization.

The CHAIRMAN. Did you bring any letter from the Governor or any State official at all in protest? Have we an official protest from the State of Arizona?

Mr. BRINTON. I don't believe we have. The legislature is in session now and has been asked to consider that. However, they have not done so as yet.

The CHAIRMAN. Thank you.

Mr. BRINTON. There is one point I might make. Governor Osborn, who is a long and tried friend of labor in Arizona, signed the second bill that was referred to the people. He was one of the men instrumental in putting the "yellow dog" prohibition into our State laws back as far as 1913, and has always been a staunch friend of labor, but he said, "Bowing to the will of the people, this law should be part of our State body of laws."

The CHAIRMAN. By that statement do you think the Governor wanted the people to feel that this was an anti-labor constitutional amendment or anti-labor law?

Mr. BRINTON. No, I think in all of our work it was as much to protect laboring men as it was anything else. In fact, that was our main thing, to be able to get jobs and to work without having to pay tribute or without having to get into an organization where we were precluded from joining. Our trouble was we couldn't get in and we couldn't work unless we did get in.

So there was nothing to do but pass a law to say either we must have the right to join or we must have the right to work without joining, and that is what our State has done twice.

The labor leaders at the time of our first campaign called it a right-to-starve measure. They told the people it would wreck the



Arizona wage scales, that all the skilled labor would leave the State. They said employers would refuse to hire veterans who were members of labor organizations. They said the measure would destroy the fundamental right to contract. They said the amendment would eliminate all collective bargaining.

During the past 2 years of this application the law has been well observed, yet not a single one of these dire predictions has come true. Union membership has been maintained, collective bargaining has been very successfully carried forward and regular wage increases have been negotiated.

In our campaigning our veterans' committee pointed out that the passage of the amendment would stop the practice of forcing membership upon employees. Under the amendment the right to strike or picket would not be modified, limited or impaired.

The amendment would not limit the right of labor organizations to solicit members. The amendment would not limit the right of any person to join a labor organization or continue in one.

In 1948 the campaign issues were the same, but they believed ours more, since ours proved true and the others proved false. On a percentage basis and also in actual majority we received a larger vote in favor of our bill the second time than we did the first time and at the same time we voted for President Truman, showing we didn't give him a mandate to repeal our labor bill.

As pertaining to the Wagner law, we in Arizona feel that we believe what the Senate committee said the bill does, saying that it does nothing to facilitate closed shop agreements, or make them legal in any State where that may be illegal.

That is Senate report 573 of the Seventy-fourth Congress.

The Taft-Hartley Act goes a step further and says that the closed shop should be left up to the States to decide, or that in substance, and the reason we were given when President Truman vetoed this was that it abandons the principle of uniform application of national policy under Federal law. The proposed bill seeks to change a policy in effect under the National Labor Relations Act of 1935, the Wagner Act, and also the Taft-Hartley Act by vetoing the rights of States to prohibit the closed shop.

The proposal of the President amounts to a suggestion of encroachment on the authority of the State governments which should excite the opposition of all 48 States.

We know that the commerce clause has been so extended that there is no local activity which cannot be held to affect interstate commerce. Now the executive branch of the Federal Government is suggesting a further basis for liquidating the rights of the States.

It is seriously proposed that if there is a difference in policy between the States as to local police matters, the Federal Government may decide which policy shall be adopted by all of the States.

We maintain that the closed shop is not necessary in order to have collective bargaining. The closed shop is a condition sought by the union for its own protection. It is not necessary against the employer, but the National Labor Relations Act protects the union against interference from that source. The employer must bargain in good faith with the union which is certified by the National Labor Relations Board pursuant to the procedures provided by law.

The Railway Labor Act is evidence that a union does not need the protection of the closed shop. The brotherhoods suffered no harm as a result of the prohibition of the closed shop under the Railway Labor Act, but actually benefited from that prohibition because they had to gain the most effective type of union security, the faith and confidence of their members, the faith and confidence of the union membership in their leaders.

The unions under the closed shop can threaten a man with the loss of his job if he criticizes the union or does not comply with all of the politics and policies of the union. This is the only reason we believe the unions have for demanding the closed shop.

In Arizona unions have been going to management and saying, "We want you to sign up men in your plant." They have ceased to represent men, but have begun bargaining with employers.

In my own home town they went into one plant, a plant employing 10 men, and said, "We want you to unionize your men." The employer said, "Talk to the men." The answer was, "We don't give a damn about the men. We are here to unionize you. If you join they have to come in."

They were not representing the workers. They were just signing up management. We feel that under a closed shop they are encouraged to do that. Under an open shop they have to gain their position by producing for their membership and, therefore, they do not indulge in such practices.

If the President believes that we need a uniformity in national laws, we suggest that he make it the same as the Railway Labor Act and provide that the closed shop be prohibited in all 48 States.

In conclusion I want to say that no one is proposing that the closed shop be made compulsory by the Federal law. By the proposed law it is left up to the employer as to whether he will agree to the closed shop or not. He may decide that it is wrong and it is within his power to refuse the demand. We maintain that the right to make the decision that the closed shop is wrong should not be granted to an individual employer and denied to the people of a State.

I have discussed here only our State's right to legislate against evils of the closed-shop contracts. I have shown that Arizona has decided twice that the practice was abusive and twice has gone to the polls and voted overwhelmingly against it.

I pursue this one point without any reference to any other provisions of S. 249. I would leave this thought with you:

Section 107 of the President's proposal could have the eventual effect of forcing everyone to join a labor organization in order to earn a livelihood. If that happens, membership in his union will be more important to a man than is his citizenship, since if he loses his livelihood his citizenship has no value.

I would like to refer to what President Roosevelt stated in the 1941 coal strike case. I skipped it in the interest of conserving time, but I think it is very important, what President Roosevelt said. He took a stand against the closed shop and said:

The Government of the United States will not order, nor will Congress pass legislation ordering a so-called closed shop. That would be too much like the Hitler methods toward labor.

The policy of uniformity is illogically extended when it reverses traditional national legislation on the closed shop, as in the Railway

case, and upsets the dual sovereignty by invading the State's right therein. No individual employer should have the authority to determine that a closed shop is good or bad when the majority of the State's electorate is powerless to so determine. I urge that Congress treat this proposal with caution, the same caution you would normally exercise when you handle an object that is borrowed from someone else.

I thank you, gentlemen.

Senator PEPPER. Mr. Chairman.

The CHAIRMAN. Senator Pepper.

Senator PEPPER. Mr. Brinton, how many members are there in your organization?

Mr. BRINTON. In our Veterans' Right-to-Work Committee?

Senator PEPPER. Yes.

Mr. BRINTON. In my particular town we had about 125 veterans. We have these groups in most every town around the State. I couldn't give the exact number.

Senator PEPPER. How many veterans are there in your town?

Mr. BRINTON. Perhaps 3,000.

Senator PEPPER. And how many veterans in the State, if you know?

Mr. BRINTON. I would guess, sir, fifteen or twenty thousand.

Senator PEPPER. Do you have an opinion or knowledge as to the number of members of your organization in the State who are veterans?

Mr. BRINTON. No, sir; I don't know.

Senator PEPPER. Would you care to express any estimate?

Mr. BRINTON. I will say this: In May we checked and we had 107 men who agreed to sign and 7 who said they didn't want to belong to that organization. The same ratio was somewhat true wherever we worked.

Senator PEPPER. In your own town, I believe you said you had about 125 out of how many in your own town?

Mr. BRINTON. Somewhere around 125.

Senator PEPPER. One hundred and twenty-five?

Mr. BRINTON. Yes, sir.

Senator PEPPER. And you said there were some 3,000 veterans altogether in your town, did you not?

Mr. BRINTON. In my town and the surrounding farming territory. I don't know what the ratio would be. We have something under 15,000 people in our town. I don't know how many veterans there would be. Three thousand would be too many, I think.

Senator PEPPER. Would you suppose that the percentage of your members to the total number of veterans in your area would prevail throughout the State in this organization as related to veterans generally?

Mr. BRINTON. I don't believe it was quite that high throughout other parts of the State. For instance, I was a little more active than some of the other men were in going out and asking people to join.

Senator PEPPER. Do your members pay dues?

Mr. BRINTON. We asked anyone who wished to put money in. We didn't require any money in order to join. We didn't impose conditions of membership other than that we said they had to be interested in general in this subject.

Senator PEPPER. You don't have regular dues?

Mr. BRINTON. No, sir; we charged no money. It was a minute-man organization where all of us who could gave our time and worked together in that way.

Senator PEPPER. Is this organization formed just for this purpose, just to try to get this amendment through?

Mr. BRINTON. That was our original purpose, sir, because we found men in our town and in other towns when we got to checking with our friends, men who could not join certain unions and could not work without joining.

Senator PEPPER. Has this committee taken any position on the Taft-Hartley Act generally?

Mr. BRINTON. No, sir, not that I know of. We are primarily interested in our own local problem, which this new proposed bill would do away with.

Senator PEPPER. You just haven't taken any action. You couldn't say that your organization does have an attitude on the Taft-Hartley Act generally?

Mr. BRINTON. We don't have an attitude.

Senator PEPPER. You are a businessman?

Mr. BRINTON. I am a life-insurance man, Senator. In getting started I skipped that. I am sorry.

Senator PEPPER. You don't have any interest or you are not in the block business?

Mr. BRINTON. No, sir. That is one of my neighbors, but when you stick him, I bleed, because I deal with small-business men and I deal with laborers and with farmers; we are all friends, and if one man is out of a job, it hurts our business.

Senator PEPPER. You have no interest in the Arizona Pre-cast Concrete Co.?

Mr. BRINTON. I have a small financial interest in that.

Senator PEPPER. What kind of business does that company do?

Mr. BRINTON. They make these small building blocks. I took some of the money I saved overseas, my neighbor needed a little of it but, unfortunately I believe it is about gone now. Maybe I will get it back and maybe I will not. It has never paid a dividend.

Senator PEPPER. Are the employees of that company union men? Do they belong to a union?

Mr. BRINTON. No, sir; they haven't joined. They have been given an opportunity to join, but they didn't want to. There is one union man there, and when Mr. Dean Sisk came over and talked to him he said to him, "When we get everybody signed up here then you are out." He was a member, had been a member of the union in Phoenix, and he had asked questions and other things that the labor leaders didn't like, and then he moved to Mesa. Dean Sisk said he was going to be fired.

Senator PEPPER. Was your company picketed a few weeks ago?

Mr. BRINTON. They have been picketed a number of times.

Senator PEPPER. Who was picketing you and for what?

Mr. BRINTON. I asked the pickets that and they said, "You can go to Phoenix and ask." That is what they told me. I am not suggesting you do that, sir.

They were told they were being picketed because they didn't join the union.

Senator PEPPER. You mean your own employees were being picketed by people from somewhere else?

Mr. BRINTON. The plant was being picketed by men brought over from Phoenix.

Senator PEPPER. Did they carry any signs?

Mr. BRINTON. They said, "This place unfair."

Senator PEPPER. Did they say why they said you were unfair?

Mr. BRINTON. No. I asked the pickets a number of times when I was there.

Senator PEPPER. You say you accorded the members the right to join the union but they didn't want to?

Mr. BRINTON. In fact, Mr. Anderson, the president of it, in trying to get some business asked the men to join and they said that now he has changed his position, now he has a chance for business he is trying to get the men to join, and the latest report is they don't want to join even though their boss would like them to.

Senator PEPPER. Have there been any complaints made that your company paid a substandard wage in competition with the rest of the block industry?

Mr. BRINTON. I believe, sir, that some of their wages are lower and some of their wages are higher.

Senator PEPPER. Are you a member of the block-industry organization where these others seem to have associated themselves together in this industry?

Mr. BRINTON. The only thing I know about that particular thing is that there is a plant in Phoenix and the plant in Phoenix agrees not to sell certain blocks in Mesa and the plant in Mesa agrees not to sell certain blocks in Phoenix. I can't say whether they belong to an association.

Senator PEPPER. Is there an organization of block-manufacturing plants in the Salt River Valley who are signed up under an agreement with the Arizona district council of construction, production, and maintenance labor union?

Mr. BRINTON. I don't know. As I say, my interest is very small. It is practically in the nature of a loan. I have never received anything out of the company. In fact, a couple of the men even bought their life insurance elsewhere.

Senator PEPPER. Really?

Mr. BRINTON. Yes, sir; which might be unfair.

Senator PEPPER. Well, maybe you had better develop better employer-employee relations and get that life-insurance business.

Mr. Brinton, does this constitutional amendment that you got adopted prohibit just the closed shop or the closed shop and the union shop?

Mr. BRINTON. It prohibits requiring—here is a copy of it, sir. It is just a short one and perhaps you would like to read it.

Senator PEPPER. Did you read this in your testimony?

Mr. BRINTON. Yes, sir. I read that just now in my testimony.

Senator PEPPER. It says:

No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual, or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization.

Did the Governor or someone else say or was there a case where the Governor announced that members or workers could not insist on a union on account of that constitutional provision?

Mr. BRINTON. Couldn't what?

Senator PEPPER. Couldn't insist on a union, recognizing a union, because of that amendment.

Mr. BRINTON. Men can have any kind of a union they wish. They are not prohibited from that. We have that law already in our constitution. We had as early as 1913 a law forbidding yellow-dog contracts and at present this was the only thing we felt was needed because the other we already had.

We only wanted to provide that a man could join or stay out if he decided. He could join any kind of union group he wanted to, but he could also stay out if he wanted to.

Senator PEPPER. You put on a campaign to get this constitutional amendment adopted?

Mr. BRINTON. Yes, sir.

Senator PEPPER. Do you recall how much money your organization spent in that campaign?

Mr. BRINTON. In 1948, sir, which was the last one—in 1946 I was chairman of the committee, I was one of the members of it. In 1948 in defending our original one and striving to have the people O. K. it again, we spent about \$25,000. One reason I asked to testify tonight is we had a few dollars left over that we had to come back here on and we wanted to get home before our money ran out.

Senator PEPPER. Did you file a statement with the secretary of state of Arizona as to the expenditures that your organization incurred?

Mr. BRINTON. I believe we did.

Senator PEPPER. Do you recall the amount you stated in that statement that you expended?

Mr. BRINTON. I believe it was close to \$25,000, around twenty-four-thousand-one-hundred-and-sixty-some-odd dollars, something like that.

Senator PEPPER. You are talking about the year 1946?

Mr. BRINTON. Nineteen hundred and forty-eight, sir.

Senator PEPPER. You had another campaign in 1948, did you, in addition to the one in 1946?

Mr. BRINTON. We had to do the same thing all over again, sir.

Senator PEPPER. You spent about \$25,000 in 1948?

Mr. BRINTON. Yes, sir.

Senator PEPPER. How much did you spend in 1946?

Mr. BRINTON. I wasn't chairman at that time, I was a member of the committee, and I don't recall how much was spent. If I were guessing, I would say somewhere about the same. However, we didn't really have as much money as the other side did.

Senator PEPPER. I have what purports to be a copy of a statement here filed with the secretary of state showing you spent \$32,886.62 in the 1946 campaign.

Mr. BRINTON. I would guess that was about right.

Senator PEPPER. The statement filed with the secretary of state, if the copy I have here is correct, also shows the source of the funds that you expended, where your organization got the money, and it

shows on the 3d of July 1946, that the veterans' right-to-work committee out of the petition fund evidently contributed \$2,034.76.

What would you say that petition fund was? Was it a fund raised by the organization petitioning its members?

Mr. BRINTON. That was the money raised to have the petition circulated. It was necessary to circulate a petition. We asked for donations for that.

Senator PEPPER. Donations from the public?

Mr. BRINTON. From anyone who would give donations.

Senator PEPPER. On the 3d of July 1946, this account shows, received from United Veterans for Good Government, Arizona Post No. 1, \$1,620. What is this organization called United Veterans for Good Government?

Mr. BRINTON. That is the group that is more or less behind this, veterans who are actually out asking for contributions.

A number of people in our State were very much afraid to contribute to an organization such as this for fear of reprisals by labor, and they said they would like to contribute to us if they could give us some money, and so we set this organization up to keep books because our other—we set the organization up to take care of these funds because our general veterans' group didn't have records and books and such things as that. They were the people that just went around—I myself went up and down the street and said, "Can you help us with this cause?" It was almost like the Salvation Army with the drum, but we asked for \$5 and \$10 there and people mailed me money, and we handled that through this united veterans' group.

Senator PEPPER. What I am trying to get at is: Was there a separate organization called the United Veterans for Good Government?

Mr. BRINTON. Yes, sir.

Senator PEPPER. That was formed?

Mr. BRINTON. Yes, sir.

Senator PEPPER. Is it a permanent organization? Was it an existing organization before 1946?

Mr. BRINTON. No, sir; not as far as I know.

Senator PEPPER. Does it exist now?

Mr. BRINTON. Yes; it continued to exist when we had to fight this again, the same group came forward.

Senator PEPPER. Does that organization have a membership and a roll of members, a roster of members?

Mr. BRINTON. We have a number of members, four or five or a half-dozen, some such number.

Senator PEPPER. How many members are there of that organization entitled "United Veterans for Good Government"?

Mr. BRINTON. I don't know, sir.

Senator PEPPER. Well, I see that, as I mentioned, on the 3d of July 1946, they gave \$1,620. On the 11th of July 1946, Arizona Post No. 1 gave \$50. On August 1, 1946, United Veterans for Good Government, Arizona Post No. 1, \$300.

On August 15, 1946, United Veterans for Good Government, Arizona Post No. 1, \$100. August 6, 1948, \$1,260. On the 30th of August, the same organization \$525. On the 6th of September, \$100. On the 21st of September, \$2,000.

Later on I find that same organization on the 30th of September giving \$1,500. On the 2d of October \$1,000. On the 15th of October

another thousand. On the 9th of October another thousand dollars.

All these now are Arizona Post No. 1 of this United Veterans for Good Government.

On October 10, 1946, \$3,000. That is from the same organization. On the 14th of October 1946, the same organization, \$2,000. Then on the 22d of October 1946, the same organization, \$3,000. On the 25th of October 1946, the same organization, same post, Arizona Post No. 1, \$2,000. On the 28th of October, the same organization, \$3,000. On the 30th of October, same organization, \$575. On the 1st of November, the same year, same organization, same post, \$2,500. On the 4th of November 1946, same organization, \$1,000, same post. On the 16th of November of the same year, same post, \$1,000.

That organization contributed a sizable percentage of your campaign fund, didn't it?

MR. BRINTON. Sir, there is one thing in there. More than 700 farmers throughout the State sent in money to us. We banked it as our organization and used it.

SENATOR PEPPER. Were they all veterans?

MR. BRINTON. No, sir. This problem faced veterans and non-veterans alike. We didn't say you had to be a veteran in order to get a job in Arizona. We had this particular problem.

May I state also that the A. F. of L. assessed each of the members \$2 in the State, and they claim a membership—Governor Osborn said they had something like 70,000 total labor members in Arizona, so you can see these sums may seem large to me, however, we had only a small fraction of the money that the other side had to spend, but people in general all over the State sent money in to us to help with this fight because, as I say, they felt very strongly about it, and the fact that labor claimed this many votes but never did get nearly that many votes against the bill proved that many labor people were on our side.

I personally have received funds from members of labor unions in order to help our fight.

SENATOR PEPPER. Did any of your funds come from outside Arizona?

MR. BRINTON. Not as far as I know.

SENATOR PEPPER. This list of the Secretary of State carries the name of J. H. Roll, \$25. Rufus Sykes—I will just count the number.

Including several anonymous contributors, this statement to the Secretary of State only shows, it seems to me, that 39, including several anonymous donors, 39 individuals contributed to this fund everything that was contributed except what the United Veterans for Good Government contributed, with the exception of the \$2,034.76 which is contributed by the Veterans Right-to-Work Committee, the petition fund, so it looks like your principal donor and supporter was this United Veterans for Good Government, Arizona Post No. 1.

MR. BRINTON. As I said, many people were afraid to have their names listed because they feared reprisals from labor groups. The fact that 80,000 people voted for us showed we had many people on our side. Seven hundred farmers contributed to us, and those funds are in that United group funds.

SENATOR PEPPER. This United Veterans for Good Government was not composed exclusively of veterans; is that right?

MR. BRINTON. We were composed of veterans, but we didn't care who gave us money.



Senator PEPPER. One organization is the Veterans Right-to-Work Committee, of which you are a member, and that is shown in a separate capacity. That was the organization that fought for this amendment and raised these funds.

But then you also had to file with the Secretary of State a statement showing who contributed these funds. Now I said there is another organization that appears to have contributed the greater part of these funds, this organization entitled "United Veterans for Good Government, Arizona Post No. 1."

I ask you: Were all the members of United Veterans for Good Government, Arizona Post No. 1, veterans?

Mr. BRINTON. All of the members of the group, the people who went out and solicited the money were members. The people who gave the money, when they handed us \$10, we said thanks, and we didn't ask who they were.

Senator PEPPER. All of this good many thousands of dollars coming in through this organization, United Veterans for Good Government, was not contributed by veterans?

Mr. BRINTON. No, sir, I have never contended it was. It was the people at large throughout the State who were willing to back anyone who would stick out his neck and fight.

Senator PEPPER. You will agree, however, will you not, that the name United Veterans for Good Government would indicate it was a veterans' organization?

Mr. BRINTON. We are veterans.

Senator PEPPER. United Veterans for Good Government. You made it clear that was not composed entirely of veterans.

Mr. BRINTON. We were composed of veterans, we solicited funds from anyone.

Senator PEPPER. Do you know whether or not any members of the National Association of Manufacturers who were not veterans, or members of the United States Chamber of Commerce who were not veterans, contributed to any of these funds?

Mr. BRINTON. I couldn't say, sir. I know many winter visitors were happy to see we were carrying on this campaign and wished it could be done in their States.

Senator PEPPER. Do you know of any corporations that contributed any of these funds?

Mr. BRINTON. As far as I know, there wasn't any.

Senator PEPPER. Thank you very much.

The CHAIRMAN. Senator Taft.

Senator TAFT. Mr. Brinton, you said other people had more money. Who contributed funds on the other side of this fight?

Mr. BRINTON. They assessed union members \$2 in one of the unions. Mr. Baldwin of the culinary workers union, who is head of that, told my associate that he spent \$40,000 like a drunken sailor to defeat it.

They also advertised in the papers that, "We will beat the damn brains out of the people that are supporting this bill."

Senator TAFT. Did they file financial reports?

Mr. BRINTON. We haven't been able to find them, sir.

Senator TAFT. You mean they didn't file their financial reports?

Mr. BRINTON. I wouldn't say they didn't file them. We haven't found them.

Senator TAFT. Was there a CIO committee that was fighting you, or an A. F. of L. committee?

Mr. BRINTON. A. F. of L. fought and the CIO also.

Senator TAFT. Do you know whether funds were sent in from outside the State by A. F. of L. and CIO national organizations?

Mr. BRINTON. Men were sent in, I don't know who paid the men. Some of them came down from San Francisco. They brought groups in to work on it.

Senator TAFT. Regardless of the expense, in 1946 on this constitutional amendment, 61,875 people voted "Yes" as against 49,557 voting "No"; is that right?

Mr. BRINTON. That is right, sir.

Senator TAFT. Roughly 60,000 to 50,000. That was on the initiated constitutional amendment?

Mr. BRINTON. Yes, sir.

Senator TAFT. Then in 1948 when you had to get an initial law—

Mr. BRINTON. It was a referendum law referred back to the people. The legislature passed bills to provide penalties for people who broke the law. At first we thought people would obey it. People said, "You have a law but there are no penalties, so we will not obey it."

The legislature provided penalties. That law was referred to the people and we voted in favor of the second law.

Senator TAFT. In 1948 the affirmative vote was 86,880 as against 60,301.

Mr. BRINTON. Yes, sir, a larger majority.

Senator TAFT. That was a vote of the people?

Mr. BRINTON. Yes, sir.

Senator TAFT. It doesn't make very much difference whether veterans advocated it or anybody else. You are claiming the people of Arizona want this law and they don't want it repealed by the Federal Government; is that right?

Mr. BRINTON. Mr. Truman got about 95,000 votes and Mr. Dewey got 77,000, approximately. So our people voted for Mr. Truman by a big margin, but they also voted to regulate unions in this regard.

Senator TAFT. I notice your report shows the States which have prohibited the closed shop and the union shop both—this prohibits both closed and union shop, I take it?

Mr. BRINTON. Yes.

Senator TAFT. They are Nevada, Arizona, Texas, North Dakota, South Dakota, Nebraska, Iowa, Arkansas, Tennessee, Georgia, North Carolina, and Virginia. Are those the States that are involved?

Mr. BRINTON. To the best of my knowledge, that is true, sir. We feel if a constitutional amendment putting in these provisions had to be passed that we have enough States there to keep it from going through.

Senator TAFT. This provision reads:

or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization.

So that even if an employer and his employees wish to enter into a closed-shop agreement or union-shop agreement, that agreement is illegal?

Mr. BRINTON. That is right, sir.

Senator TAFT. That is for the protection of individual workmen?

Mr. BRINTON. If they all want to join, we have no kick. If everyone wants to join, that is all right. We don't want them to be forced. If a person feels it is good enough, he will decide to join.

Senator TAFT. You have a collective bargaining obligation in Arizona?

Mr. BRINTON. We have had that for many, many years.

Senator TAFT. So that the representative of the majority of the employees can make the deal with the employer?

Mr. BRINTON. Certainly.

Senator TAFT. He cannot deal with individual workers?

Mr. BRINTON. No, sir.

Senator TAFT. But he can employ anybody who wants to work for him and whom he wants to have work for him?

Mr. BRINTON. Yes.

Senator TAFT. Do you consider that to be for the protection of the individual citizen, and for the individual workman?

Mr. BRINTON. For the protection of the individual workman.

Senator TAFT. Thank you.

Senator DOUGLAS. Mr. Chairman.

The CHAIRMAN. Senator Douglas.

Senator DOUGLAS. Mr. Brinton, you mentioned the fact that on the railways we have strong unions, and yet we do not have the closed shop. You used that as proof of the fact that the closed shop is not necessary for the maintenance of a strong union; is that right?

Mr. BRINTON. Yes.

Senator DOUGLAS. Is it not true that on the railways you have seniority and that the system of seniority, therefore, protects the individual union worker from being discriminated against or fired by his employer?

Mr. BRINTON. I believe that is true, sir.

Senator DOUGLAS. Whereas, you did not have seniority prior to the coming of strong unionism in manufacturing, and, therefore, it was always possible in a so-called open shop for an employer to pick out the leading union men and fire them; is that true?

Mr. BRINTON. I believe that is true, sir. We are concerned mainly with the State's right to have this law for the protection of our people.

Senator DOUGLAS. All I am trying to show is that isn't it natural that union men, not having seniority, would feel that in order to protect themselves against discrimination that they should have in addition to a collective agreement either the closed shop or union shop?

Mr. BRINTON. Not in Arizona, we do not think so, sir. Twice, we voted that we did not.

Senator DOUGLAS. You said you do not think so?

Mr. BRINTON. It is claimed that there are 70,000 members of labor unions in the State, and yet never have they got anywhere near that large a vote. I know one particular shop in Mesa employing electrical workers and they voted unanimously for our bill. They contributed to us voluntarily because they were being bossed in their unions. They wanted to be free, they wanted to have freedom in their union, and wanted their union leaders to have to produce, not to be where they could kick them out when they wanted to.

Senator DOUGLAS. That is a complicated question, of course, but can't you see the position of the advocates of the closed shop—that

where you do not have seniority and do not have other forms of job security, that they regard some form of closed shop or union shop as necessary to protect themselves against being discriminated against by an antiunion employer?

MR. BRINTON. But how about the poor man who can't join a union and can't get a job without joining? We felt he was the man who should be protected.

SENATOR DOUGLAS. I would say, if you had regulated union dues, that would have been one thing. If you had legislated against the closed union, that would be thoroughly understandable, but doesn't this possibly strengthen the hand of the antiunion employer? You have had many bitter battles in Arizona.

MR. BRINTON. They have continued to get wage increases; they have continued to bargain collectively. We haven't had very much trouble with it under our law except that in this same plant we spoke of last week when I left they were still asking for a closed shop against both Arizona laws. They don't seem to want to obey until they are forced to obey.

It isn't like their attorney told us—that when the majority votes for a union shop or to belong to a union everyone should accept it in good grace. They say that is all right on the other side, but on their side that doesn't hold true. The majority doesn't matter.

SENATOR HUMPHREY. Mr. Chairman, I think in view of some of the allegations that were made—and I have no reason to doubt their veracity—I would suggest that we write to the attorney general of the State of Arizona and find out whether or not there were threats of reprisals. I think it would be interesting, too, in view of the testimony which has been read about the finances for this group, that we find out what the financial statement was of the other group. I am sure the law of the State must compel financial statements. It does in practically every other State.

I think also it would be very well to receive for the record a statement from the other side of the question on this as to how they view it. Surely, this is a highly controversial matter, and if we want to have a complete record, in view of the charges that have been made—and they are rather serious charges I may say—we ought to at least entertain the reception of a statement from the people on the other side.

THE CHAIRMAN. We will have the clerk write to the attorney general of Arizona and try to get that information.

(A request for the information referred to was forwarded by the clerk.)

SENATOR SMITH. I have a question, Mr. Chairman.

THE CHAIRMAN. Senator Smith.

SENATOR SMITH. Mr. Brinton, I am very much impressed with your sincerity and what you are trying to do. I gather from your testimony that in the event that there was a closed shop in your State or any State, or union shop, so-called, you would feel it would be perfectly appropriate under those conditions to have open unions so that anyone could join the union if that was a condition of his livelihood, as you so well pointed out.

If that is the case, wouldn't it be appropriate also, in spite of the objections that are made to having legislation with regard to the internal affairs of unions, to have legislation that would protect the individual worker who was compelled to join the union in his rights, both

as to dues, protection, assessments, and reasons for firing, and all that sort of thing?

In other words, if we are legalizing the closed shop or union shop, don't we need necessarily to protect the poor worker who is between two fires? He is in danger of exploitation by the employer on the one hand in places where he was not protected prior to the Wagner Act, and now he is in danger of exploitation by the union under the conditions you bring out.

Mr. BRINTON. We felt it was better to have the open-shop provision, since the unions were voluntary associations, and we didn't want to tell them how to run their business. We felt it would be better the other way.

May I answer Senator Humphrey.

He wanted to know how other side feels. I think the fact that the vote twice shows how the people of Arizona feel—we voted twice overwhelmingly in favor of this—and as to the other side, I think it would be one thing to get a statement from the labor leaders and it is another thing to get a statement from the union members. I think that is a point that should be borne in mind, that there is a difference.

Senator TAFT. You spoke of advertisements which were run by the unions.

Mr. BRINTON. Yes, sir.

Senator TAFT. Would you submit those also, as part of the report?

Mr. BRINTON. We will get copies of those where they said they would "beat our damned brains out," and also some of the other things we have mentioned.

Senator SMITH. Could you get statements from members of the unions as well as the leaders, the workers as well as the leaders, to give us evidence of what the general opinion was?

Mr. BRINTON. We have some statements in the case where the labor leader came in and said, "We are here to sign you up." We have signed statements from the workers to that effect. That statement has been published in advertisements in the State during the campaign where it says, "Dean Sisk came to the management and said, 'We don't give a damn about the men working with you, we are here to unionize you. If you join, the workers have to come in'."

Senator SMITH. I am open to being convinced on this thing, but I feel if we are going into the closed-shop situation, we have to do something to protect the worker against abuses that may be in the set-up.

The CHAIRMAN. Mr. Brinton, we have to stop. Any material that you are going to send in to us should be sent with dispatch so it will get into the record soon.

Mr. BRINTON. Shall I send it to you?

The CHAIRMAN. Send it to me.

(Mr. Brinton submitted the following prepared statement:)

#### LABOR LEGISLATION

(Statement by Dilworth Brinton, Mesa, Ariz., for the Veterans' Right-to-Work Committee)

#### TITLE I. INTRODUCTION OF SPEAKER

I am Dilworth Brinton, age 31, of Mesa, Ariz., a city of about 15,000. I was born in Idaho, but moved with my parents to Arizona when I was three. I worked my way through the University of Arizona, graduating in 1940. During

the war I volunteered for service with the O. S. S. and served 18 months in Burma and Siam. Part of this time was spent behind the enemy lines in Siam.

In 1946 I was a member of the Veterans' Right-to-Work Committee, and in 1948 served as the committee chairman. By profession I am an insurance agent.

In a city as small as ours we feel each other's problems very keenly. I work with small businesses, laborers and farmers. When one of our men can't work, we all feel it. It was for this reason that I became interested in a right-to-work campaign to give all persons—veterans and nonveterans alike—the right to apply for a job wherever they are qualified.

Our men who fought for freedom abroad were made to pay tribute at home. Veterans and other workers did not have the right to join any union, but were denied jobs because of nonmembership. We did not and do not believe it fair for any group to set restrictions on who may work in a free country.

I am here to urge that Arizona people be allowed to vote according to their wishes and needs concerning the question of the closed shop.

## TITLE II. ARIZONA'S RIGHT-TO-WORK LAW

In appearing here I want to confine my remarks to that part of the administration's proposal that would reach into my State to do away with laws which we in Arizona have found proper and necessary to prevent certain abuses. The Veterans' Right-to-Work Committee placed on the ballot in 1946 a proposed amendment to the State constitution, which, if enacted, would prohibit the execution of compulsory union-membership contracts. The text of that amendment is attached as exhibit A. Also attached (exhibit B) is a percentage chart, which shows that every county in our State voted for the enactment of our amendment.

### EXHIBIT A. ARIZONA VETERANS' RIGHT-TO-WORK COMMITTEE

(Initiated constitutional amendment, adopted at the general election, November 5, 1946)

*Be it enacted by the people of the State of Arizona:* That the Constitution of the State of Arizona be amended by adding thereto another article to read as follows:

"No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization."

Immediately after its passage, our amendment was subjected to litigation to test its constitutionality. It was declared constitutional in our State courts, and on January 3 of this year, the United States Supreme Court declared it to be constitutional.

Meanwhile, in February of 1947, the Arizona Legislature, in response to the peoples' will, passed a measure to make the amendment operative by providing penalties for those who would infract its closed-shop provisions. That measure as attached as exhibit C. Our late Governor Osborn, a lifelong champion of Arizona's organized-labor movement, signed the act, stating that he was carrying out the wishes of the Arizona people in so doing.

However, the will of the people (and that includes many of Arizona's 70,000 labor members, who must have voted for the amendment) was not the will of the State's labor leaders. Petitions were filed by organized labor referring the legislative act to the electorate. In the recent, 1948, general election the act was voted into law by an even greater majority (numerically and percentagewise) than that which supported the original amendment in 1946.

EXHIBIT B

## Veteran's Right-to-Work Committee

0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
APACHE COUNTY - 813 YES 749 NO										
COCHISE COUNTY - 4175 YES 3178 NO										
COCONINO COUNTY - 1653 YES 915 NO										
GILA COUNTY - 2590 YES 2464 NO										
GRAHAM COUNTY - 2194 YES 706 NO										
GREENLEE COUNTY - 936 YES 710 NO										
MARICOPA COUNTY - 26,279 YES 24,015 NO										
MOHAVE COUNTY - 1029 YES 739 NO										
NAVAJO COUNTY - 1551 YES 1337 NO										
PIMA COUNTY - 10,492 YES 8979 NO										
PINAL COUNTY - 2747 YES 1177 NO										
SANTA CRUZ COUNTY - 1175 YES 429 NO										
YAVAPAI COUNTY - 3488 YES 2720 NO										
YUMA COUNTY - 2756 YES 1439 NO										

Chart (by Counties) showing percentage favoring Right-to-Work Amendment  
November 1946

Totals 61,875 Yes  
49,557 No

## TITLE III. OTHER STATE LAWS

Arizona was not alone in this matter, since 12 other States have found compulsory union membership objectionable and have made the practice illegal, while 5 more States prohibit the closed shop, permitting the union shop after certain requirements have been met. (See attached exhibit E.)

## TITLE IV. CONDITIONS WHICH REQUIRED ENACTMENT OF ARIZONA'S RIGHT-TO-WORK LAW

It became apparent soon after the cessation of hostilities that so-called union-security provisions gained during the war had grown into full-fledged and in-

creasing closed shops in Arizona. Labor organizations in Arizona were negotiating with management to force workers into their union rather than representing labor in dealing with management. In the realm of my experience, a small plant in Mesa, which manufactures building blocks, employs about 10 men. The business agent for the union declared to the plant manager, "I don't give a damn about your men, if you sign up the plant, they'll have to join. We're here to unionize you."

#### EXHIBIT C. ARIZONA VETERANS' RIGHT-TO-WORK COMMITTEE

[Passed by Arizona Eighteenth Legislature in regular session, 1947. Signed by Governor Osborn, March 20, 1947. Referred to the people and adopted at the general election November 2, 1948]

[Ch. 81, Senate Bill No. 65]

AN ACT Relating to employment; prohibiting the denial of employment because of nonmembership in a labor organization; prohibiting agreements excluding any person from employment because of nonmembership in a labor organization; prohibiting strikes or picketing to induce violation of this act; making illegal compelling or attempting to compel a person to join a labor organization or leave his employment against his will; prohibiting conspiracies to cause the discharge of any persons because of nonmembership in a labor organization; prescribing penalties; and declaring an emergency

*Be it enacted by the Legislature of the State of Arizona:*

SECTION 1. Definition of labor organization: The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

SEC. 2. Agreements prohibiting employment because of nonmembership in labor organization prohibited: No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the state, or any subdivision thereof or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization.

SEC. 3. Certain contracts declared illegal and void: Any act or any provision in any agreement which is in violation of this act shall be illegal and void. Any strike or picketing to force or induce any employer to make an agreement in writing or orally in violation of this act shall be for an illegal purpose.

SEC. 4. Compelling person to join labor organization or to strike against his will or to leave his employment prohibited: It shall be unlawful for any employee, labor organization, or officer, agent, or member thereof to compel or attempt to compel any person to join any labor organization or to strike against his will or to leave his employment by any threatened or actual interference with his person, immediate family or property.

SEC. 5. Conspiracies to violate act prohibited: Any combination or conspiracy by two or more persons to cause the discharge of any person or to cause him to be denied employment because he is not a member of a labor organization, by inducing or attempting to induce any other person to refuse to work with such person, shall be illegal.

SEC. 6. Liability for damages: Any person who violates any provision of this act, or who enters into any agreement containing a provision declared illegal by this act, or who shall bring about the discharge or the denial of employment of any person because of nonmembership in a labor organization shall be liable to the person injured as the result of such act or provision and may be sued therefor, and in any such action any labor organization, subdivision or local thereof shall be held to be bound by the acts of its duly authorized agents acting within the scope of their authority, and may sue or be sued in its common name.

SEC. 7. Injunctive relief: Any person injured or threatened with injury by any act declared illegal by this act, shall, notwithstanding any other provision of the law to the contrary, be entitled to injunctive relief therefrom.

SEC. 8. Definition of person: The word "person" includes a corporation, association, company, firm or labor organization, as well as a natural person.

SEC. 9. Severability of provisions: If any word, clause, phrase, sentence, provision or other part of this act or the application thereof to any person or circumstance shall be held invalid, the remainder of this act and the application of such invalid word, clause, phrase, sentence or other provision of this act to other persons or circumstances shall not be affected thereby.



SEC. 10. Emergency: To preserve the public peace, health, and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Passed the senate, and house with insufficient votes to carry emergency clause.

Approved by the Governor, March 20, 1947.

Filed in the Office of the Secretary of State, March 20, 1947.

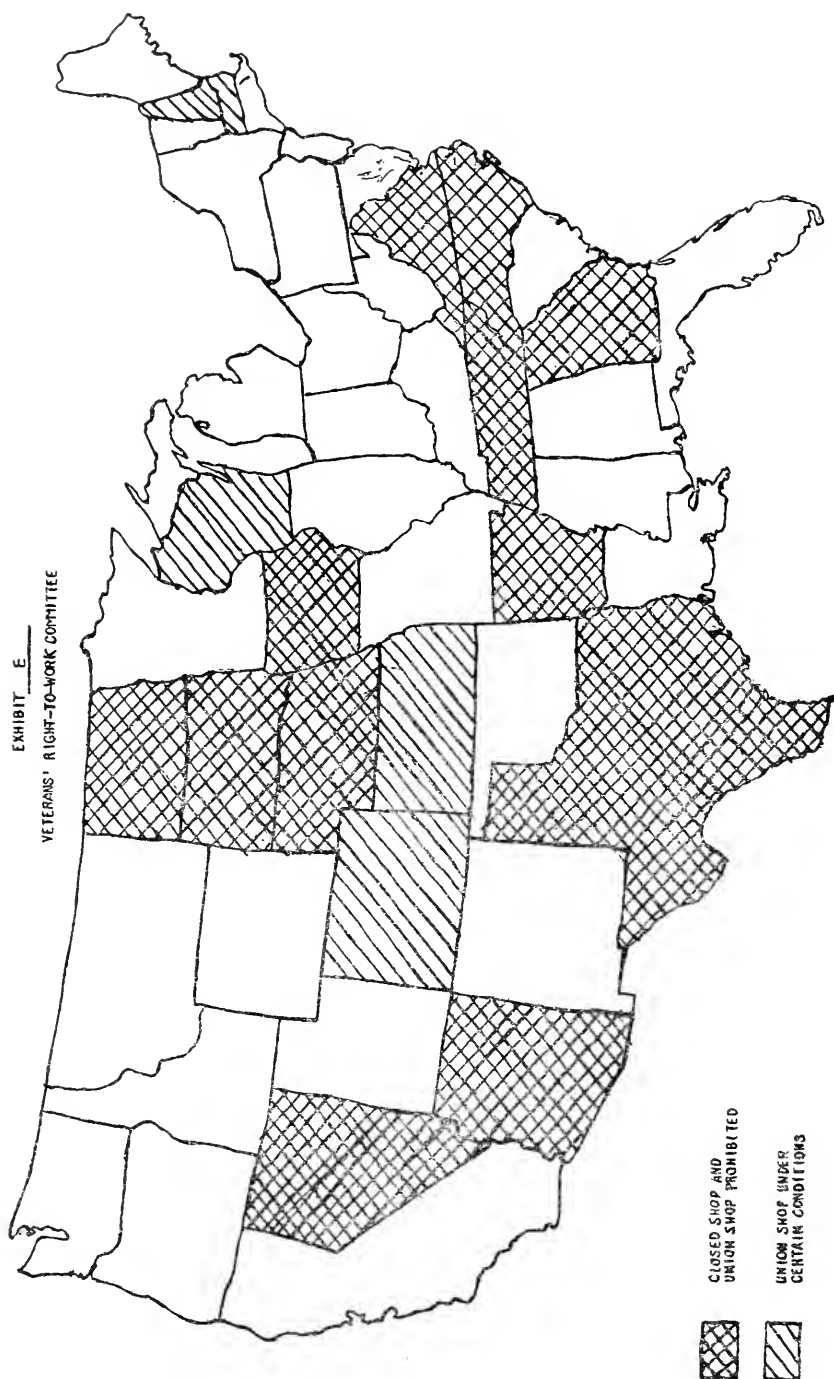
EXHIBIT D

## Veterans' Right-to-Work Committee

0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
APACHE COUNTY - 1029 YES							621 NO			
COCHISE COUNTY - 4903 YES							2932 NO			
COCONINO COUNTY - 2335 YES							1223 NO			
GILA COUNTY - 3215 YES							3007 NO			
GRAHAM COUNTY - 1788 YES								689 NO		
GREENLEE COUNTY - 1117 YES						1165 NO				
MARICOPA COUNTY - 32,311 YES							27,647 NO			
MOHAVE COUNTY - 1150 YES						1140 NO				
NAVAJO COUNTY - 1933 YES						1688 NO				
PIMA COUNTY - 17,252 YES							13,190 NO			
PINAL COUNTY - 3383 YES							1236 NO			
SANTA CRUZ COUNTY - 1566 YES									394 NO	
YAVAPAI COUNTY - 4321 YES							2906 NO			
YUMA COUNTY - 3625 YES							2363 NO			

Chart (by Counties) showing percentage favoring Right-to-Work Amendment  
November 1948

Totals 86,880 YES  
60,301 NO



I have heard the argument that the closed shop is justified by its growth, implying that it is popular. It had certainly grown in Arizona until the passage of our amendment, but it has been proven very unpopular with Arizona voters. It seems to me that growth alone does not serve as a criterion of desirability in this instance any more than it would in the case of a cancer's growth.

Just as I believe everyone would be happier attending church, but would oppose a regulation requiring church attendance; so do I feel that every worker has the right to join a labor organization, but I will continue to fight any rule which requires membership. And the provisions of S. 249 amount to a law requiring union membership, since they permit closed shops, which tend to multiply until the net end will be that everyone in the United States will be required to join a labor union in order to live and feed his family. Membership in a union will command a higher allegiance than citizenship in our Nation, since when a man's livelihood is gone citizenship has no value.

In determining that Arizona needed a right-to-work law, it seemed highly relevant that President Roosevelt had felt that he was required to interfere in the 1941 coal strike. In this case the principal issue was the closed shop. After their first decision had resulted in the disrupting of the National Defense Mediation Board by the severance of its labor members, President Roosevelt took a stand against the closed shop, saying, "the Government of the United States will not order, nor will Congress pass legislation ordering a so-called closed shop—that would be too much like the Hitler methods toward labor."

#### TITLE V. SUMMARY OF CAMPAIGN ARGUMENTS OF OPPONENTS AND PROPONENTS OF ARIZONA'S AMENDMENT

##### SECTION A. THE CITIZENS' COMMITTEE AGAINST THE RIGHT TO STARVE

Under the above title the labor leaders of Arizona conducted a campaign in 1946, which predicted the following in event the amendment were adopted:

1. The measure would wreck wage scales in Arizona.
2. All skilled labor would leave the State.
3. Employers would refuse to hire veterans who were members of labor organizations.
4. The measure would destroy the fundamental right to contract.
5. The amendment would eliminate all collective bargaining.

During the past 2 years of its application the law has been well observed, yet not a single one of these dire predictions has come true. Union membership has been maintained, collective bargaining has been very successfully carried forward, and regular wage increases have been negotiated.

##### SECTION B. VETERANS' RIGHT-TO-WORK COMMITTEE

In our campaigning, the committee pointed out that:

1. Passage of the amendment would stop the practice of forcing membership upon employees.
2. Under the amendment the right to strike or picket would not be modified, limited, or impaired.
3. The amendment would not limit the right of labor organizations to solicit members.
4. The amendment would not limit the right of any person to join a labor organization or continue in one.

In the 1948 campaign the same contentions were made by both sides as in 1946, but in light of 2 years of experience, the contentions of the right-to-work committee were much more believable, since they had been proven true.

#### TITLE VI. S. 249 PROPOSES TO DENY THE RIGHT TO STATES TO PROHIBIT COMPULSORY UNION MEMBERSHIP AS A CONDITION TO EMPLOYMENT

##### SECTION A. THE PROPOSED PROVISIO

As I said, I am here specifically to defend the Arizona right-to-work law by objecting to section 107 of the President's proposed bill which provides:

"The proviso of section 8 (a) (3) of the National Labor Relations Act of 1935 is amended to read as follows: Provided that nothing in this act, or in any other statute of the United States, or in any State law, shall preclude an employer engaged in commerce, or whose activities affect commerce, from making

an agreement with a labor organization, \* \* \* to require as a condition of employment membership therein \* \* \*." [Italics supplied.]

#### SECTION B. THE CORRESPONDING PROVISIO IN THE NATIONAL LABOR RELATIONS ACT, 1935

The proviso of section 8 (a) (3) of the National Labor Relations Act, 1935, did not contain the phrase "or in any State law." The omission was deliberate. At the time of the passage of the act the Senate committee said: "The bill does nothing to facilitate closed-shop agreements or to make them legal in any State where they may be illegal" (S. Rept. No. 573, 74th Cong., 1st sess., p. 11).

#### SECTION C. LABOR-MANAGEMENT RELATIONS ACT, 1947

Section 14 (b) of section 101 of the Labor-Management Relations Act, 1947 provides:

"Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any state or territory in which such execution or application is prohibited by state or territorial law."

#### SECTION D. PRESIDENT'S VETO MESSAGE OF JUNE 20, 1947

The President, in his message vetoing the Labor-Management Relations Act, 1947, objected to the section 14 (b) on the grounds that "it abandons the principle of uniform application of national policy under federal law.

#### SECTION E. PURPOSE OF PROVISIO IN S. 249

The proposed bill seeks to change a policy in effect under the National Labor Relations Act, 1935, and now in effect under the Labor-Management Relations Act, 1947, by vetoing the rights of States to prohibit the closed shop. (By the use of the term "closed shop," I include variations of the closed shop such as the union shop.)

#### SECTION F. CAUSE FOR ALARM

The proposal of the President amounts to a suggestion of encroachment on the authority of the State governments which should excite the opposition of all 48 States.

We know that the commerce clause has been so extended that there is no local activity which cannot be held to affect interstate commerce. By way of example: An employee of a water users association in Arizona who turns water from the irrigation canal into a ditch to go to a farmer's field has been held by the Ninth Circuit Court of Appeals to be engaged in an activity affecting interstate commerce because some of the products grown in the field may later be shipped out of the State.

Now the executive branch of the Federal Government is suggesting a further basis for liquidating the rights of the States. It is seriously proposed that if there is a difference in policy between the States as to a local police matter, the Federal Government may decide which policy shall be adopted by all of the States.

#### SECTION G. REASONS WHY PROPOSAL IS AN UNWARRANTED ENCROACHMENT ON THE SOVEREIGNTY OF THE STATE GOVERNMENTS

1. *Is the closed shop necessary in order to have collective bargaining?*—In the first place the closed shop is a condition sought by the union itself for its own protection. Against whom? Is it not necessary against the employer for the National Labor Relations Act protects the union against interference from that source. The employer must bargain in good faith with the union which is certified by the National Labor Relations Board pursuant to the procedures provided by law.

The Railway Labor Act is evidence that a union does not need the protection of the closed shop. The brotherhoods suffered no harm as a result of the prohibition of the closed shop under the Railway Labor Act, but actually benefited from that prohibition because they had to gain the most effective type of union security—the faith and confidence of their members.

The unions under the closed shop can threaten a man with the loss of his job if he criticizes the union or does not comply with all of the politics and policies of the union. It is the only reason the unions have for demanding the closed shop. They have been ruthless in their exercise of the sanction which is the abuse complained of.

2. *Should a State have the right to correct abuses and protect its citizens?—* If the people of a State from their observations and experiences believe that the closed shop is a sanction which is not necessary for a union to have and that it gives rise to abuses and infringes upon the rights of individuals, then Congress should have the greatest reluctance to interfere with the State's judgment and should do so only if Congress is willing to pass a law making membership in a union mandatory to working in the United States. Arizona in 1913 passed its law prohibiting the "yellow dog" contract. What valid arguments could have been presented to Congress then, which would justify a Federal law prohibiting States from barring the "yellow dog" contract?

Take another example. If the people of a State believed that there had been abuses in picketing, and that mass picketing and force and violence on picket lines should be made unlawful, should the State be denied the right to legislate on the subject because a Federal Congress might hold to the theory that a union in a labor dispute was justified in using any means it chose to padlock the struck plant?

#### SECTION H. PATTERN FOR UNIFORMITY IS THE RAILWAY LABOR ACT WHICH BARS THE CLOSED SHOP

If the President and Congress believe that there must be uniformity on the closed-shop question among the several States, then the only way to achieve uniformity consistent with the respective sovereign powers of States and the Federal Government is for the Federal Government to prohibit the closed shop in all 48 States as was done in the Railway Labor Act.

#### SECTION I. CONCLUSION

No one is proposing that the closed shop be made compulsory by the Federal law. By the proposed law, it is left up to the employer as to whether he will agree to the closed shop or not. He may decide that it is wrong and it is within his power to refuse the demand. The right to make the decision that the closed shop is wrong should not be granted to an individual employer and denied to the people of a State.

#### TITLE VII. SUMMARY

I have discussed here only a State's right to legislate against the evils of closed-shop contracts. I have shown that Arizona decided that the practice was abusive and has twice gone to the polls to vote overwhelmingly against it. I have pursued this one point without any prejudice to other provisions of S. 249.

I would leave with you the thought that:

1. Section 107 of the President's proposal could have the eventual effect of forcing everyone to join a labor organization in order to earn a livelihood.

2. President Roosevelt stated that neither our Government nor Congress would enact legislation to produce such an effect.

3. The policy of uniformity is illogically extended when it reverses traditional national legislation on the closed-shop question and upsets the dual sovereignty by invading the State's right therein.

4. No individual employer should have the authority to determine that a closed shop is good or bad, when a majority of the State's electorate are powerless to so determine.

I urge that Congress treat the proposal with the caution that is normally exercised when handling a borrowed object.

Thank you very much.

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(Subsequently Mr. Brinton addressed the chairman as follows:)

FEBRUARY 15, 1949.

Senator ELBERT THOMAS (Utah),

*Senate Office Building, Washington, D. C.*

DEAR SENATOR: As requested by yourself, Senator Taft and Senator Smith at the time of my testimony, I am sending under separate cover today additional material regarding Arizona's anti-closed-shop laws.

The material included is—

1. Supreme Court opinion on the constitutionality of our right-to-work amendment;
2. Ads run by our veterans' committee in 1946;
3. Financial statement filed by the veterans' committee in 1946;
4. Statement from the late Governor Osborn concerning the bill (S. B. 65) passed by our eighteenth legislature to enforce the 1946 amendment; and
5. Ads run by our committee in the 1948 campaign after S. B. 65 had been referred to the people;
6. Financial statement filed by our veterans' committee in 1948;
7. Ads run by labor groups in the 1946 campaign;
8. A clipping to show the method employed to finance part of the labor leaders' 1948 campaign;
9. Clippings from various labor journals to show 2 years of propaganda by labor preceding the 1948 campaign;
10. Copies of ads used by labor leaders in their 1948 campaign;
11. A statement from Arizona's Governor Garvey certifying that the amendment and its enabling bill are now the law of the land; and
12. A statement from our Secretary of State, showing that our opposition filed a report on part of their 1946 expenses, but no report on their huge 1948 campaign expenditures.

While I realize this is a burdensome compilation, I pray it will have some effect in helping the committee determine that section 107 of the proposed S. 249 would usurp certain sacred States' rights.

Please accept my heartfelt thanks for the courtesy of allowing me to testify, and particularly allowing me to be heard ahead of my turn. I hope and trust my statement will receive full consideration.

Sincerely,

DILWORTH Brinton.

Attached are the opinions of the United States Supreme Court Justices regarding the constitutionality of the anti-closed-shop laws of Arizona and other States.

I urge that you go over my submitted statement for the chronology of events that caused Arizona to vote twice to get its right to work.

#### SUPREME COURT OF THE UNITED STATES

Nos. 47 AND 34.—OCTOBER TERM, 1948

Lincoln Federal Labor Union No. 19129, American Federation of Labor, et al., 47 v. Northwestern Iron and Metal Company, et al. George Whitaker, A. M. DeBruhl, T. G. Embler, et al., 34 v. State of North Carolina.	}	Appeals From the Supreme Courts of the States of Nebraska and North Car- olina.
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[January 3, 1949]

MR. JUSTICE BLACK delivered the opinion of the Court.

Under employment practices in the United States, employers have sometimes limited work opportunities to members of unions, sometimes to non-union members, and at other times have employed and kept their workers without regard to whether they were or were not members of a union. Employers are commanded to follow this latter employment practice in the states of North Carolina and Nebraska. A North Carolina statute and a Nebraska constitutional amendment<sup>1</sup>

<sup>1</sup> Section 2 of Chapter 328 of the North Carolina Session Laws, enacted in 1947, reads as follows:

"Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or organization shall be denied the right to work for said employer, or whereby such membership is made a condition of

provide that no person in those states shall be denied an opportunity to obtain or retain employment because he is or is not a member of a labor organization. To enforce this policy North Carolina and Nebraska employers are also forbidden to enter into contracts or agreements obligating themselves to exclude persons from employment because they are or are not labor union members.<sup>2</sup>

These state laws were given timely challenge in North Carolina and Nebraska courts on the ground that insofar as they attempt to protect nonunion members from discrimination, the laws are in violation of rights guaranteed employers, unions, and their members by the United States Constitution.<sup>3</sup> The state laws were challenged as violations of the right of freedom of speech, of assembly and of petition guaranteed unions and their members by "the First Amendment and protected against invasion by the state under the Fourteenth Amendment." It was further contended that the state laws impaired the obligations of existing contracts in violation of Art. I, § 10, of the United States Constitution and deprived the appellant unions and employers of equal protection and due process of law guaranteed against state invasion by the Fourteenth Amendment. All of these contentions were rejected by the State Supreme Courts<sup>4</sup> and the cases are here on appeal under § 237 of the Judicial Code, 28 U. S. C. § 344. The substantial identity of the questions raised in the two cases prompted us to set them for argument together and for the same reason we now consider the cases in a single opinion.

*First.* It is contended that these State laws abridge the freedom of speech and the opportunities of unions and their members "peaceably to assemble and to petition the Government for a redress of grievances."<sup>5</sup> Under the State policy adopted by these laws, employers must, other considerations being equal, give equal opportunities for remunerative work to union and nonunion members without discrimination against either. In order to achieve this objective of equal opportunity for the two groups, employers are forbidden to make contracts which would obligate them to hire or keep none but union members. Nothing in the language of the laws indicates a purpose to prohibit speech, assembly, or petition. Precisely what these State laws do is to forbid employers acting alone or in concert with labor organizations deliberately to restrict employment to none but union members.

It is difficult to see how enforcement of this State policy could infringe the freedom of speech of anyone, or deny to anyone the right to assemble or to

employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina."

Nebraska in 1946 adopted a constitutional amendment, § 13 of which reads as follows: "No person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labor organization or because of refusal to join or affiliate with a labor organization; nor shall any individual or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment because of membership in or non-membership in a labor organization."

<sup>2</sup> Shops that refuse to employ any but union members are sometimes designated as "closed shops," sometimes as "union shops." Contracts which obligate an employer to employ none but union members are sometimes designated as union security agreements, closed shop contracts or union shop contracts. There is also much dispute as to the exact meaning of the term "open shop." See *Encyclopedia of Social Sciences*, Vol. 3 (1930), pp. 568-569. There is such an important difference in emphasis between these different labels that we think it better to avoid use of any of them in this opinion.

<sup>3</sup> The Nebraska constitutional amendment was challenged in an action for equitable relief and for a declaratory judgment. A substantial basis of the complaint was that employers had refused to comply with the request of unions to discharge certain employees who had failed to retain union membership in North Carolina, criminal proceedings were instituted against the appellants charging that an agreement made unlawful by the statute had been entered into by the appellant employer and the other appellants, who are officers and agents of labor unions affiliated with the American Federation of Labor.

<sup>4</sup> *State v. Whitaker*, 228 N. C. 352, 45 S. E. 2d 860; *Lincoln Federal Labor Union No. 19129 v. Northwestern Iron & Metal Co.*, 149 Neb. 507, 31 N. W. 2d 477. See also *American Federation of Labor v. American Sash & Door Co.*, 67 Ariz. 20, 189 P. 2d 912. An appeal in this latter case was also argued along with the two cases considered in this opinion. We have treated the Arizona case in a separate opinion, *post*, p. —, because the challenged Arizona amendment presents a question not raised in the Nebraska or North Carolina laws.

<sup>5</sup> This contention rests on the premise that the Fourteenth Amendment makes the prohibitions and guarantees of the First Amendment applicable to state action. See *West Virginia v. Barnette*, 319 U. S. 624, 639. The pertinent language of the First Amendment is "Congress shall make no law . . . abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

petition for a redress of grievances. And appellants do not contend that the laws expressly forbid the full exercise of those rights by unions or union members. Their contention is that these State laws indirectly infringe their constitutional rights of speech, assembly, and petition. While the basis of this contention is not entirely clear, it seems to rest on this line of reasoning: The right of unions and union members to demand that no non-union members work along with union members is "indispensable to the right of self organization and the association of workers into unions"; without a right of union members to refuse to work with nonunion members, there are "no means of eliminating the competition of the nonunion worker"; since, the reasoning continues, a "closed shop is indispensable to achievement of sufficient union membership to put unions and employers on a full equality for collective bargaining, a closed shop is consequently an indispensable concomitant" of "the right of employees to assemble into an associate together through labor organizations. \* \* \*" Justification for such an expansive construction of the right to speak, assemble and petition is then rested in part on appellant's assertion "that the right of a nonunionist to work is in no way equivalent to or the parallel of the right to work as a union member; that there exists no constitutional right to work as a nonunionist on the one hand while the right to maintain employment free from discrimination because of union membership is constitutionally protected." Cf. *Wallace Corp. v. Labor Board*, 323 U. S. 248.

We deem it unnecessary to elaborate the numerous reasons for our rejection of this contention of appellants. Nor need we appraise or analyze with particularity the rather startling ideas suggested to support some of the premises on which appellants' conclusions rest. There cannot be wrung from a constitutional right of workers to assemble to discuss improvement of their own working standards, a further constitutional right to drive from remunerative employment all other persons who will not or can not, participate in union assemblies. The constitutional right of workers to assemble, to discuss and formulate plans for furthering their own self interest in jobs cannot be construed as a constitutional guarantee that none shall get and hold jobs except those who will join in the assembly or will agree to abide by the assembly's plans. For where conduct affects the interests of other individuals and the general public, the legality of that conduct must be measured by whether the conduct conforms to valid law, even though the conduct is engaged in pursuant to plans of an assembly.

*Second.* There is a suggestion though not elaborated in briefs that these State laws conflict with Art. I, § 10, of the United States Constitution, insofar as they impair the obligation of contracts made prior to their enactment. That this contention is without merit is now too clearly established to require discussion. See *Home Bldg. & Loan Assn. v. Blaisdell*, 290 U. S. 398, 436-439, and cases there cited. And also *Veie v. Sixth Ward Bldg. & Loan Assn.*, 310 U. S. 32, 38; *East New York Savings Bank v. Hahn*, 326 U. S. 230, 232.

*Third.* It is contended that the North Carolina and Nebraska laws deny unions and their members equal protection of the laws and thus offend the equal protection clause of the Fourteenth Amendment. Because the outlawed contracts are a useful incentive to the growth of union membership, it is said that these laws weaken the bargaining power of unions and correspondingly strengthen the power of employers. This may be true. But there are other matters to be considered. The State laws also make it impossible for an employer to make contracts with company unions which obligate the employer to refuse jobs to union members. In this respect, these State laws protect the employment opportunities of members of independent unions. See *Wallace Corporation v. Labor Board*, *supra*. This circumstance alone, without regard to others that need not be mentioned, is sufficient to support the State laws against a charge that they deny equal protection to unions as against employers and nonunion workers.

It is also argued that the State laws do not provide protection for union members equal to that provided for nonunion members. But in identical language these state laws forbid employers to discriminate against union and nonunion members. Nebraska and North Carolina thus command equal employment opportunities for both groups of workers. It is precisely because these state laws command equal opportunities for both groups that appellants argue that the constitutionally protected rights of assembly and due process have been violated. For the constitutional protections surrounding these rights are relied on by appellants to support a contention that the Federal Constitution guarantees greater employment rights to union members than to nonunion mem-



bers. This claim of appellants is itself a refutation of the contention that the Nebraska and North Carolina laws fail to afford protection to union members equal to the protection afforded nonunion workers.

*Fourth.* It is contended that these state laws deprive appellants of their liberty without due process of law in violation of the Fourteenth Amendment. Appellants argue that the laws are specifically designed to deprive all persons within the two states of "liberty" (1) to refuse to hire or retain any person in employment because he is or is not a union member, and (2) to make a contract or agreement to engage in such employment discrimination against union or non-union members.

Much of appellants' argument here seeks to establish that due process of law is denied employees and union men by that part of these state laws that forbids them to make contracts with the employer obligating him to refuse to hire or retain nonunion workers. But that part of these laws does no more than provide a method to aid enforcement of the heart of the laws, namely, their command that employers must not discriminate against either union or non-union members because they are such. If the states have constitutional power to ban such discrimination by law, they also have power to ban contracts which if performed would bring about the prohibited discrimination. *Chicago, B. & Q. R. Co. v. McGuire*, 219 U. S. 549, 570, 571.

Many cases are cited by appellants in which this Court has said that in some instances the due process clause protects the liberty of persons to make contracts. But none of these cases, even those according the broadest constitutional protection to the making of contracts, ever went so far as to indicate that the due process clause bars a state from prohibiting contracts to engage in conduct banned by a valid state law. So here, if the provisions in the state laws against employer discrimination are valid, it follows that the contract prohibition also is valid. *Bayside Fish Flour Co. v. Gentry*, 297, U. S. 422, 427. And see *Sage v. Hampe*, 235 U. S. 99, 104-105. We therefore turn to the decisive question under the due process contention, which is: Does the due process clause forbid a state to pass laws clearly designed to safeguard the opportunity of nonunion members to get and hold jobs, free from discrimination against them because they are nonunion workers?

There was a period in which labor union members who wanted to get and hold jobs were the victims of widespread employer discrimination practices. Contracts between employers and their employees were used by employers to accomplish this antiunion employment discrimination. Before hiring workers, employers required them to sign agreements stating that the workers were not and would not become labor union members. Such antiunion practices were so obnoxious to workers that they gave these required agreements the name of "yellow dog contracts." This hostility of workers also prompted passage of state and federal laws to ban employer discrimination against union members and to outlaw yellow-dog contracts.

In 1907 this Court in *Adair v. United States*, 208 U. S. 161, considered the federal law which prohibited discrimination against union workers. *Adair*, an agent of the Louisville & Nashville Railroad Company, had been indicted and convicted for having discharged *Coppage*, an employee of the railroad, because *Coppage* was a member of the Order of Locomotive Firemen. This Court there held, over the dissents of Justices McKenna and Holmes, that the railroad, because of the due process clause of the Fifth Amendment, had a constitutional right to discriminate against union members and could therefore do so through use of yellow dog contracts. The chief reliance for this holding was *Lochner v. New York*, 198 U. S. 45, which had invalidated a New York law prescribing maximum hours for work in bakeries. This Court had found support for its *Lochner* holding in what had been said in *Algeyer v. Louisiana*, 165 U. S. 578, a case on which appellants here strongly rely. There were strong dissents in the *Adair* and *Lochner* cases.

In 1914 this Court reaffirmed the principles of the *Adair* case in *Coppage v. Kansas*, 236 U. S. 1, again over strong dissents, and held that a Kansas statute outlawing yellow-dog contracts denied employers and employees a liberty to fix terms of employment. For this reason the law was held invalid under the due process clause.

The *Algeyer-Lochner-Adair-Coppage* constitutional doctrine was for some years followed by this Court. It was used to strike down laws fixing minimum wages and maximum hours in employment, laws fixing prices, and laws regulating business activities. See cases cited in *Olsen v. Nebraska*, 313 U. S. 236, 244-246, and *Osborn v. Ozlin*, 310 U. S. 53, 66-67. And the same constitutional

philosophy was faithfully adhered to in *Adams v. Tanner*, 244 U. S. 590, a case strongly pressed upon us by appellants. In *Adams v. Tanner*, this Court with four justices dissenting struck down a state law absolutely prohibiting maintenance of private employment agencies. The majority found that such businesses were highly beneficial to the public and upon this conclusion held that the state was without power to proscribe them. Our holding and opinion in *Olsen v. Nebraska*, *supra*, clearly undermined *Adams v. Tanner*.

Appellants also rely heavily on certain language used in this Court's opinion in *Wolff Packing Co. v. Court of Industrial Relations*, 262 U. S. 522. In that case the Court invalidated a state law which in part provided a method for a state agency to fix wages and hours.<sup>6</sup> See *Wolff Co. v. Industrial Court*, 267 U. S. 552, 565. In invalidating this part of the state act, this Court construed the due process clause as forbidding legislation to fix hours and wages, or to fix prices of products. The Court also relied on a distinction between businesses according to whether they were or were not "clothed with a public interest." This latter distinction was rejected in *Nebbia v. New York*, 291 U. S. 502. That the due process clause does not ban legislative power to fix prices, wages and hours as was assumed in the *Wolff* case, was settled as to price fixing in the *Nebbia* and *Olsen* cases. That wages and hours can be fixed by law is no longer doubted since *West Coast Hotel Co. v. Parrish*, 300 U. S. 379; *United States v. Darby*, 312 U. S. 100, 125; *Phelps Dodge Corp. v. Labor Board*, 313 U. S. 177, 187.

This Court beginning at least as early as 1934, when the *Nebbia* case was decided, has steadily rejected the due process philosophy enunciated in the *Adair-Coppage* line of cases. In doing so it has consciously returned closer and closer to the earlier constitutional principle that states have power to legislate against what are found to be injurious practices in their internal commercial and business affairs, so long as their laws do not run afoul of some specific federal constitutional prohibition, or of some valid federal law. See *Nebbia v. United States*, *supra* at 523-524, and *West Coast Hotel Co. v. Parrish*, *supra*, at 392-395, and cases cited. Under this constitutional doctrine the due process clause is no longer to be so broadly construed that the Congress and state legislatures are put in a strait-jacket when they attempt to suppress business and industrial conditions which they regard as offensive to the public welfare.

Appellants now ask us to return, at least in part, to the due process philosophy that has been deliberately discarded. Claiming that the Federal Constitution itself affords protection for union members against discrimination, they nevertheless assert that the same Constitution forbids a state from providing the same protection for nonunion members. Just as we have held that the due process clause erects no obstacle to block legislative protection of union members, we now hold that legislative protection can be afforded nonunion workers.

*Affirmed.*

#### SUPREME COURT OF THE UNITED STATES

No. 27.—OCTOBER TERM, 1948

American Federation of Labor, Arizona State Federation of Labor,  
et al.,

*v.*

American Sash & Door Company, et al.

Appeal from the Supreme Court of  
the State of Arizona

[January 3, 1949.]

MR. JUSTICE BLACK delivered the opinion of the Court.

This case is here on appeal from the Supreme Court of Arizona under § 237 of the Judicial Code as amended, 28 U. S. C. 344. It involves the constitutional

<sup>6</sup> Other parts of the state statute related to matters other than wages, prices, and the making of contracts of employment. Considerations involved in the constitutional validity of those other parts of the statute are not relevant here.

validity of the following amendment to the Arizona Constitution, adopted at the 1946 general election:

"No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization."

The Supreme Court of Arizona sustained the amendment as constitutional against the contentions that it "deprived the union appellants of rights guaranteed under the First Amendment and protected against invasion by the states under the Fourteenth Amendment to the United States Constitution"; that it impaired the obligations of existing contracts in violation of Art. I, § 10, of the United States Constitution; and that it deprived appellants of due process of law, and denied them equal protection of the laws contrary to the Fourteenth Amendment. All of these questions, properly reserved in the state court, were decided against the appellants by the State Supreme Court.<sup>1</sup> The same questions raised in the state court are presented here.

For reasons given in two other cases decided today we reject the appellants' contentions that the Arizona amendment denies them freedom of speech, assembly or petition, impairs the obligation of their contracts, or deprives them of due process of law. *American Federation of Labor v. Northwestern Iron & Metal Co.*, and *Whitaker v. State of North Carolina*, ante p. —. A difference between the Arizona amendment and the amendment and statute considered in the Nebraska and North Carolina cases has made it necessary for us to give separate consideration to the contention in this case that the Arizona amendment denies appellants equal protection of the laws.

The language of the Arizona amendment prohibits employment discrimination against nonunion workers, but it does not prohibit discrimination against union workers. It is argued that a failure to provide the same protection for union workers as that provided for nonunion workers places the union workers at a disadvantage, thus denying unions and their members the equal protection of Arizona's laws.

Although the Arizona amendment does not itself expressly prohibit discrimination against union workers, that state has not left unions and union members without protection from discrimination on account of union membership. Prior to passage of this constitutional amendment, Arizona made it a misdemeanor for any person to coerce a worker to make a contract "not to join or become a member of a labor organization" as a condition of getting or holding a job in Arizona. A section of the Arizona code made every such contract (generally known as a "yellow dog contract") void and unenforceable.<sup>2</sup> Similarly, the Arizona constitutional amendment makes void and unenforceable contracts under which an employer agrees to discriminate against nonunion workers. Statutes implementing the amendment have provided as sanctions for its enforcement relief by injunction and suits for damages for discrimination practiced in violation of the amendment.<sup>3</sup> Whether the same kind of sanctions would be afforded a union worker against whom an employer discriminated is not made clear by the opinion of the State Supreme Court in this case. But assuming that Arizona courts would not afford a remedy by injunction or suit for damages, we are unable to find any indication that Arizona's amendment and statutes are weighted on the side of nonunion as against union workers. We are satisfied that Arizona has attempted both in the anti-yellow-dog-contract law and in the antidiscrimination constitutional amendment to strike at what were considered evils, to strike where those evils were most felt, and to strike in a manner that would effectively suppress the evils.

In *Labor Board v. Jones & Laughlin Corp.*, 301 U. S. 1, this Court considered a challenge to the National Labor Relations Act on the ground that it applied restraints against employers but did not apply similar restraints against wrongful conduct by employees. We there pointed out, at p. 46, the general rule that "legislative authority, exerted within its proper field, need not embrace all the evils within its reach." And concerning state laws we have said that the existence of evils against which the law should afford protection and the relative need of

<sup>1</sup> *American Federation of Labor v. American Sash & Door Co.*, 67 Ariz. 20, 189 P. 2d 912.

<sup>2</sup> Ariz. Code Ann. §§ 56-120 (1939).

<sup>3</sup> Ariz. Sess. Laws (1947) ch. 81, p. 173.

different groups for that protection "is a matter for the legislative judgment." *West Coast Hotel Co. v. Parrish*, 300 U. S. 379, 400. We cannot say that the Arizona amendment has denied appellants equal protection of the laws.

*Affirmed.*

MR. JUSTICE MURPHY dissents.

SUPREME COURT OF THE UNITED STATES

NOS. 27, 47, AND 34.—OCTOBER TERM, 1948

American Federation of Labor, Arizona  
State Federation of Labor, et al.,

27 *v.*

American Sash & Door Company, et al.

Lincoln Federal Labor Union No. 19129,  
American Federation of Labor, et al.,

47 *v.*

Northwestern Iron and Metal Company,  
et al.

George Whitaker, A. M. DeBruhl, T. G.  
Embler, et al.,

34 *v.*

State of North Carolina

On Appeal From the Supreme Courts of  
Arizona, Nebraska, and North Caro-  
lina

[January 3, 1949]

MR. JUSTICE FRANKFURTER, concurring.

Arizona, Nebraska, and North Carolina have passed laws forbidding agreements to employ only union members. The United States Constitution is invoked against these laws. Since the cases bring into question the judicial process in its application to the Due Process Clause, explicit avowal of individual attitudes towards that process may elucidate and thereby strengthen adjudication. Accordingly, I set forth the steps by which I have reached concurrence with my brethren on what I deem the only substantial issue here, on all other issues joining the Court's opinion.

The coming of the machine age tended to despoil human personality. It turned men and women into "hands." The industrial history of the early Nineteenth Century demonstrated the helplessness of the individual employee to achieve human dignity in a society so largely affected by technological advances. Hence the trade-union made itself increasingly felt, not only as an indispensable weapon of self-defense on the part of workers but as an aid to the well-being of a society in which work is an expression of life and not merely the means of earning subsistence. But unionization encountered the shibboleths of a pre-machine age and these were reflected in juridical assumptions that survived the facts on which they were based. Adam Smith was treated as though his generalizations had been imparted to him on Sinai and not as a thinker who addressed himself to the elimination of restrictions which had become fetters upon initiative and enterprise in his day. Basic human rights expressed by the constitutional conception of "liberty" were equated with theories of *laissez faire*.<sup>1</sup> The result was that economic views of confined validity were treated by lawyers and judges as though the Framers had enshrined them in the Constitution. This misapplication of the notions of the classic economists and resulting disregard of the perduring reach of the Constitution led to Mr. Justice Holmes' famous protest in the *Lochner* case against measuring the Fourteenth Amendment by Mr.

<sup>1</sup>Of course, theory never wholly squared with the facts. Even while *laissez faire* doctrines were dominant, State activity in economic affairs was considerable. See Hadlin, *Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861* (1947); Hartz, *Economic Policy and Democratic Thought: Pennsylvania, 1776-1860* (1948).

Herbert Spencer's Social Statics. 198 U. S. 45, 75. Had not Mr. Justice Holmes' awareness of the impermanence of legislation as against the permanence of the Constitution gradually prevailed, there might indeed have been "hardly any limit but the sky" to the embodiment of "our economic or moral beliefs" in that Amendment's "prohibitions." *Baldwin v. Missouri*, 281 U. S. 586, 595.

The attitude which regarded any legislative encroachment upon the existing economic order as infected with unconstitutionality led to disrespect for legislative attempts to strengthen the wage earner's bargaining power. With that attitude as a premise, *Adair v. United States*, 208 U. S. 161, and *Coppage v. Kansas*, 236 U. S. 1, followed logically enough; not even *Truax v. Corrigan*, 257 U. S. 312, could be considered unexpected. But when the tide turned, it was not merely because circumstances had changed and there had arisen a new order with new claims to divine origin. The opinion of Mr. Justice Brandeis in *Scan v. Tile Layers Union*, 301 U. S. 468, shows the current running strongly in the new direction—the direction not of social dogma but of increased deference to the legislative judgment. "Whether it was wise," he said, now speaking for the Court and not in dissent, "for the State to permit the union to [picket] is a question of its public policy—not our concern." *Id.* at 481. Long before that, in *Duplex Printing Press Co. v. Deering*, 254 U. S. 443, 488, he had warned:

"All rights are derived from the purposes of the society in which they exist; above all rights rises duty to the community. The conditions developed in industry may be such that those engaged in it cannot continue their struggle without danger to the community. But it is not for judges to determine whether such conditions exist, nor is it their function to set the limits of permissible contest, and to declare the duties which the new situation demands. This is the function of the legislature, which, while limiting individual and group rights of aggression and defense, may substitute processes of justice for the more primitive method of trial by combat."

Unions are powers within the State. Like the power of industrial and financial aggregations, the power of organized labor springs from a group which is only a fraction of the whole that Mr. Justice Holmes referred to as "the one club to which we all belong." The power of the former is subject to control, though, of course, the particular incidence of control may be brought to test at the bar of this Court. *E. g.*, *Northern Securities Co. v. United States*, 193 U. S. 197; *North American Co. v. SEC*, 327 U. S. 686. Neither can the latter claim constitutional exemption. Even the Government—the organ of the whole people—is restricted by the system of checks and balances established by our Constitution. The designers of that system distributed authority among the three branches "not to promote efficiency but to preclude the exercise of arbitrary power." Mr. Justice Brandeis, dissenting in *Myers v. United States*, 272 U. S. 52, 293. Their concern for individual members of society, for whose well-being government is instituted, gave urgency to the fear that concentrated power would become arbitrary. It is a fear that the history of such power, even when professedly employed for democratic purposes, has hardly rendered unfounded.

If concern for the individual justifies incorporating in the Constitution itself devices to curb public authority, a legislative judgment that his protection requires the regulation of the private power of unions cannot be dismissed as insupportable. A union is no more than a medium through which individuals are able to act together; union power was begotten of individual helplessness. But that power can come into being only when, and continue to exist only so long as, individual aims are seen to be shared in common with the other members of the group. There is a natural emphasis, however, on what is shared and a resulting tendency to subordinate the inconsistent interests and impulses of individuals. From this, it is an easy transition to thinking of the union as an entity having rights and purposes of its own. An ardent supporter of trade unions who is also no less a disinterested student of society has pointed out that "As soon as we personify the idea, whether it is a country or a church, a trade union or an employers' association, we obscure individual responsibility by transferring emotional loyalties to a fictitious creation which then acts upon us psychologically as an obstruction, especially in times of crisis, to the critical exercise of a reasoned judgment." Laski, *Morris Cohen's Approach to Legal Philosophy*, 15 U. of Chi. L. Rev. 575, 581 (1948).

The right of association, like any other right carried to its extreme, encounters limiting principles. See *Hudson County Water Co. v. McCarter*, 209 U. S. 349,

355. At the point where the mutual advantage of association demands too much individual disadvantage, a compromise must be struck. See Dicey, *Law and Public Opinion in England* 435-66 (1905). When that point has been reached—where the intersection should fall—is plainly a question within the special province of the legislature. This Court has given effect to such a compromise in sustaining a legislative purpose to protect individual employees against the exclusionary practices of unions. *Steete v. Louisritte & N. R. Co.*, 323 U. S. 192; *Wallace Corp. v. Labor Board*, 323 U. S. 248; *Railway Mail Assn. v. Corsi*, 326 U. S. 88; cf. *Joliet & Eastern R. Co. v. Burley*, 325 U. S. 711, 733-34. The rationale of the Arizona, Nebraska, and North Carolina legislation prohibiting union-security agreements is founded on a similar resolution of conflicting interests.<sup>2</sup> Unless we are to treat as unconstitutional what goes against the grain because it offends what we may strongly believe to be socially desirable, that resolution must be given respect.

It is urged that the compromise which this legislation embodies is no compromise at all because fatal to the survival of organized labor. But can it be said that the legislators and the people of Arizona, Nebraska, and North Carolina could not in reason be skeptical of organized labor's insistence upon the necessity to its strength of power to compel rather than to persuade the allegiance of its reluctant members? In the past fifty years the total number of employed, counting salaried workers and the self-employed but not farmers or farm laborers, has not quite trebled, while total union membership has increased more than thirty-three times; at the time of the open-shop drive following the First World War, the ratio of organized to unorganized non-agricultural workers was about one to nine, and now it is almost one to three.<sup>3</sup> However necessitous may have been the circumstances of unionism in 1898 or even in 1923, its status in 1948 precludes constitutional condemnation of a legislative judgment, whatever we may think of it, that the need of this type of regulation outweighs its detriments. It would be arbitrary for this Court to deny the States the right to experiment with such laws, especially in view of the fact that the Railroad Brotherhoods have held their own despite congressional prohibition of union se-

<sup>2</sup> See, e. g., State of Arizona Initiative and Referendum Publicity Pamphlet, 1946 (Compiled and Issued by the Secretary of State); Testimony before the Nebraska State Legislative Committee on Labor and Public Welfare, March 21, 1947 (transcript of the Committee's record of the substance of the testimony kindly furnished by the Department of Justice of Nebraska); *The Case against the Closed Shop in Nebraska*, a pamphlet published by the "Right-to-Work Committee"; N. C. Laws, 1947, c. 328, § 1 (preamble). As to the similar purpose of similar legislation in other States, see, e. g., *The Open Shop in Virginia*, Report of the Virginia Advisory Legislative Council to the Governor of Virginia, House Doc. No. 2, p. 7 (1947); Address of Wm. M. Tuck to the General Assembly and People of Virginia, Extra Session, House Doc. No. 1, pp. 8-9 (1947); *Tucumcari* (N. M.) Daily News, Oct. 6, 1948, p. 3, col. 3 (report of radio addresses by sponsors of proposed "right-to-work amendment").

<sup>3</sup> In the following table, "union membership" includes all members of AFL, CIO, and independent or unaffiliated unions, including Canadian members of international unions with headquarters in the United States; the "employment" figures include all nonagricultural employees (i. e., wage and salary workers), nonagricultural self-employed, unpaid family workers, and domestic-service workers.

Year	Union Membership (thousands)	Employment (thousands)
1898	467	17, 826
1900	791	20, 202
1903	1, 824	22, 871
1908	2, 092	27, 031
1913	2, 661	33, 456
1918	3, 368	32, 314
1923	3, 629	35, 505
1928	3, 567	28, 670
1933	2, 857	34, 530
1938	8, 265	45, 390
1943	13, 642	50, 400
1948	15, 600	

The "union-membership" totals, except for 1948, are taken from *Membership of Labor Unions in the United States*, U. S. Dept. of Labor, Bureau of Labor Statistics (mimeographed pamphlet); the "union-membership" and "employment" totals for 1948 are preliminary estimates by the Bureau of Labor Statistics. The "employment" figures for years up to 1928 are taken from *Employment and Unemployment of the Labor Force, 1900-1940*, 2 Conference Board Economic Record 77, 80 (1940); "employment" figures for years since 1929, except 1948, and the basis upon which they are estimated may be found in Technical Note, 67 Monthly Labor Rev., No. 1, p. 50 (1948).

curity<sup>4</sup> and in the light of the experience of countries advanced in industrial democracy, such as Great Britain and Sweden, where deeply rooted acceptance of the principles of collective bargaining is not reflected in uncompromising demands for contractually guaranteed security.<sup>5</sup> Whether it is preferably in the public interest that trade unions should be subjected to State intervention or left to the free play of social forces, whether experience has disclosed "union unfair labor practices" and, if so, whether legislative correction is more appropriate than self-discipline and the pressure of public opinion—these are questions on which it is not for us to express views. The very limited function of this Court is discharged when we recognize that these issues are not so unrelated to the experience and feelings of the community as to render legislation addressing itself to them wilfully destructive of cherished rights. For these are not matters, like censorship of the press or separation of Church and State, on which history, through the Constitution, speaks so decisively as to forbid legislative experimentation.

But the policy which finds expression in the prohibition of union-security agreements need not rest solely on a legislative conception of the public interest which includes but transcends the special claims of trade unions. The States are entitled to give weight to views combining opposition to the "closed shop" with long-range concern for the welfare of trade unions. Mr. Justice Brandeis, for example, before he came to this Court, had been a staunch promoter of unionism. In testifying before the Commission on Industrial Relations, he said:

"I should say to those employers who stand for the open shop that they ought to recognize that it is for their interests as well as that of the community that unions should be powerful and responsible; that it is to their interests to build up the union; to aid as far as they can in making them stronger; and to create conditions under which the unions shall be led by the ablest and most experienced men."<sup>6</sup>

Yet at the same time he believed that "The objections, legal, economic, and social, against the closed shop are so strong, and the ideas of the closed shop so antagonistic to the American spirit, that the insistence upon it has been a serious obstacle to union progress." Letter of Sept. 6, 1910, to Lawrence F. Abbott of

<sup>4</sup> Section 2, Fourth, of the 1934 Amendment, 48 Stat. 1187, of the Railway Labor Act of 1926, 44 Stat. 577, 45 U. S. C. § 152, Fourth, appears on its face to bar union-shop agreements, and it has been so interpreted. 40 Ops. Atty. Gen., No. 59 (Dec. 29, 1942). The wisdom of such a legislative policy is of course not for us to judge.

In the following table, "Membership of Brotherhoods" includes the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Enginemen and Firemen, the Order of Railway Conductors, and the Brotherhood of Railroad Trainmen, with the Canadian membership of each, but not railroad employees who are members of CIO or independent unions. The 1919 figure for "Employment Class I Railroads" includes all, not merely Class I, operating carriers.

Year	Membership of Brotherhoods (thousands)	Employment Class I Railroads (thousands)
1919	456	1,908
1924	434	1,774
1929	423	1,661
1934	268	1,008
1939	303	988
1944	442	1,415
1947	450	1,352

The "Membership of Brotherhoods" figures are estimates made available through the kindness of the Bureau of Labor Statistics. Those for 1924-1934 are based on Wolman, Ebb and Flow in Trade Unionism 230-31 (1936). The figures for "Employment Class I Railroads" have been obtained from the I. C. C. annual reports entitled *Statistics of Railways in the United States*, that for 1919 from the 33d Ann. Rep. at 21 (1922); that for 1924 from 38th Ann. Rep. at 25 (1926); those for 1929, 1934, and 1939 from 54th Ann. Rep. at 59 (1942); that for 1944 from 60th Ann. Rep. at 55 (1948); that for 1947 from I. C. C., Bureau of Transport Economics and Statistics, Statement No. M-300, *Wage Statistics of Class I Steam Railways in the United States* (1947).

<sup>5</sup> See U. S. Dept. Labor, Report of the Commission on Industrial Relations in Great Britain 23 (1938); U. S. Dept. Labor, Report of the Commission on Industrial Relations in Sweden 9 (1938). Cf. The Universal Declaration of Human Rights, Art. 20, cl. 2, adopted by the General Assembly of the United Nations, Dec. 11, 1948, declaring that "No one shall be compelled to belong to an association."

<sup>6</sup> Sen. Doc. No. 415, 64th Cong., 1st Sess., 7681. For other expressions of Mr. Justice Brandeis' sympathy for the cause of trade unions, see *id.* at 7659-60, 7662, 7667; Brandeis, *The Employer and Trade Unions*, in *Business—a Profession* 13 (1914); *Industrial Co-operation*, 3 Filene Co-operative Association Echo, No. 3, p. 1 (May 1905), reprinted in *The Curse of Bigness* 35 (Fraenkel, ed. 1935); *Big Business and Industrial Liberty*, reprinted in *id.* at 38.

the *Outlook*.<sup>7</sup> On another occasion he wrote, "But the American people should not, and will not, accept unionism if it involves the closed shop. They will not consent to the exchange of the tyranny of the employer for the tyranny of the employees." Letter of Feb. 26, 1912, to Lincoln Steffens.<sup>8</sup> In summing up his views on unionism, he said:

"It is not true that the 'success of a labor union' necessarily means a 'perfect monopoly.' The union, in order to attain and preserve for its members industrial liberty, must be strong and stable. It need not include every member of the trade. Indeed, it is desirable for both the employer and the union that it should not. Absolute power leads to excesses and to weakness: Neither our character nor our intelligence can long bear the strain of unrestricted power. The union attains success when it reaches the ideal condition, and the ideal condition for a union is to be strong and stable, and yet to have in the trade outside its own ranks an appreciable number of men who are nonunionist. In any free community the diversity of character, of beliefs, of taste—indeed mere selfishness—will insure such a supply, if the enjoyment of this privilege of individualism is protected by law. Such a nucleus of unorganized labor will check oppression by the union as the union checks oppression by the employer." Quoted from Louis D. Brandeis' contribution to a discussion entitled *Peace with Liberty and Justice* in 2 Nat. Civic Federation Rev., No. 2, pp. 1, 16 (May 15, 1905).

Mr. Brandeis on the long view deemed the preferential shop a more reliable form of security both for unions and for society than the closed shop; that he did so only serves to prove that these are pragmatic issues not appropriate for dogmatic solution.

Whatever one may think of Mr. Brandeis' views, they have been reinforced by the adoption of laws insuring against that undercutting of union standards which was one of the most serious effects of a dissident minority in a union shop. Under interpretations of the National Labor Relations Act undisturbed by the Taft-Hartley Act,<sup>9</sup> and of the Railway Labor Act, the bargaining representative designated by a majority of employees has exclusive power to deal with the employer on matters of wages and working conditions. Individual contracts, whether on more or less favorable terms than those obtained by the union, are barred. *J. I. Case Co. v. Labor Board*, 321 U. S. 332; *Order of R. R. Telegraphers v. Railway Express Agency*, 321 U. S. 342; *Medo Photo Supply Corp. v. Labor Board*, 321 U. S. 678; see *Elgin, Joliet & Eastern R. Co. v. Burley*, 325 U. S. 711, 737, n. 35. Under these laws, a non-union bidder for a job in a union shop cannot, if he would undercut the union standards.

Even where the social undesirability of a law may be convincingly urged, invalidation of the law by a court debilitates popular democratic government. Most laws dealing with economic and social problems are matters of trial and error.<sup>10</sup> That which before trial appears to be demonstrably bad may belie prophecy in actual operation. It may not prove good, but it may prove innocuous. But even if a law is found wanting on trial, it is better that its defects should be demonstrated and removed than that the law should be aborted by judicial

<sup>7</sup> Copy obtained from the collection of Brandeis papers at the Law Library of the University of Louisville, to which I am indebted. The letter is quoted in part in Mason, Brandeis: A Free Man's Life 301 (1946). See also testimony before the Commission on Industrial Relations, *op. cit.*, *supra*, note 6, at 7080-81. As an alternative to the closed or union shop, Mr. Brandeis advocated the "preferential union shop," which, apparently, is also barred by the Arizona, Nebraska, and North Carolina laws. For accounts of the working of the "preferential union shop," see Moskowitz, *The Power for Constructive Reform in the Trade Union Movement*, 2 Life and Labor 10 (1912); Winslow, *Conciliation, Arbitration, and Sanitation in the Cloak, Suit, and Skirt Industry in New York City*, 24 Bulletin of the Bureau of Labor, No. 98, Jan. 1912, H. R. Doc. No. 166, 62d Cong., 2d Sess., 203, 215.

<sup>8</sup> Copy obtained from the University of Louisville; quoted in part in Mason, *op. cit.*, *supra*, note 7, at 303-04.

<sup>9</sup> See H. R. Rep. No. 245, 80th Cong., 1st Sess. 17; 93 Daily Cong. Rec. 4491 (May 1, 1947).

<sup>10</sup> Examples of legislative experimentation undertaken to meet a recognized need were the bank-deposit guaranty laws passed in the wake of the panic of 1907 by Kansas, Nebraska, and Oklahoma. Despite serious doubts of their wisdom, the laws were sustained against due-process attack in *Noble State Bank v. Haskell*, 219 U. S. 104 and 575; *Shallenberger v. First State Bank*, 219 U. S. 114; *Assaria State Bank v. Dolley*, 219 U. S. 121. Experience proved the laws to be unworkable, see Robb, *Guaranty of Bank Deposits*, in 2 Encyc. Soc. Sciences 417 (1930). But since no due-process obstacle stood in the way, it remained possible to profit by past errors and attempt a more mature solution of the problem on a national scale. See Sen. Rep. No. 77, 73d Cong., 1st Sess. 9-13; H. R. Rep. No. 150, 73d Cong., 1st Sess. 5-7. The result was establishment of the Federal Deposit Insurance Corporation by the Banking Act of 1933, 48 Stat. 108, 12 U. S. C. § 264. If that expedient should prove inadequate, the way is open for further experimentation. See Note, *The Glass-Steagall Banking Act of 1933*, 47 Harv. L. Rev. 325, 330-32 (1933).



fiat. Such an assertion of judicial power deflects responsibility from those on whom in a democratic society it ultimately rests—the people. If the proponents of union-security agreements have confidence in the arguments addressed to the Court in their “economic brief,” they should address those arguments to the electorate. Its endorsement would be a vindication that the mandate of this Court could never give. That such vindication is not a vain hope has been recently demonstrated by the voters of Maine, Massachusetts, and New Mexico.<sup>11</sup> And although several States in addition to those at bar now have such laws,<sup>12</sup> the legislatures of as many other States have, sometimes repeatedly, rejected them.<sup>13</sup> What one State can refuse to do, another can undo.

But there is reason for judicial restraint in matters of policy deeper than the value of experiment: it is founded on a recognition of the gulf of difference between sustaining and nullifying legislation. This difference is theoretical in that the function of legislating is for legislatures who have also taken oaths to support the Constitution, while the function of courts, when legislation is challenged, is merely to make sure that the legislature has exercised an allowable judgment, and not to exercise their own judgment, whether a policy is within or without “the vague contours” of due process. Theory is reinforced by the notorious fact that lawyers predominate in American legislatures.<sup>14</sup> In practice also the difference is wide. In the day-to-day working of our democracy it is vital that the power of the non-democratic organ of our Government be exercised with rigorous self-restraint. Because the powers exercised by this Court are inherently oligarchic, Jefferson all of his life thought of the Court as “an irresponsible body”<sup>15</sup> and “independent of the nation itself.”<sup>16</sup> The Court is not saved from being oligarchic because it professes to act in the service of humane ends. As history amply proves, the judiciary is prone to misconceive the public good by confounding private notions with constitutional requirements, and such misconceptions are not subject to legitimate displacement by the will of the people except at too slow a pace.<sup>17</sup> Judges appointed for life whose

<sup>11</sup> On Sept. 13, 1948, the voters of Maine rejected “An Act to Protect the Right to Work and to Prohibit Secondary Boycotts, Sympathetic Strikes, and Jurisdictional Strikes” and “An Act Protecting the Right of Members and Nonmembers of Labor Organizations to the Opportunity to Work.” The vote in favor of the first bill was 46,809; for the second, 13,676; against both bills, 126,285. These figures were kindly furnished by the Deputy Secretary of State of the State of Maine.

On Nov. 2, 1948, the voters of Massachusetts rejected “An Act making it unlawful to exclude any person from employment because of membership or nonmembership in a labor organization, and providing a penalty for such exclusion” by a vote of 1,290,310 to 505,575. Report of the Executive Department of the Commonwealth of Massachusetts, Nov. 24, 1948, p. 60.

On the same day the voters of New Mexico rejected a similar bill by a vote of 60,118 to 41,387 (incomplete returns). See Clovis (N. M.) News Journal, Nov. 5, 1948, p. 1, col. 3.

<sup>12</sup> Ark. Const. Amend. No. 34, Nov. 7, 1944, and Acts of Ark., 1947, Act 101; Del. Laws, 1947, c. 196, § 30; Fla. Const. Decl. of Rights, § 12, as amended Nov. 7, 1944; Ga. Laws, 1947, No. 140; Iowa Laws, 1947, c. 296; La. Gen. Stat., § 4381.2 (Dart, 1939); Md. Ann. Code Gen. Laws, art. 100, § 65 (1939); Nev. Comp. Laws, § 10473 (1929); N. D. Laws, 1947, c. 243; S. D. Const., art. 6, § 2, as amended Nov. 1, 1946, and Laws 1947, c. 92; Tenn. Public Acts 1947, c. 36; Texas Laws, 1947, c. 74; Va. Acts of Assembly, 1947, c. 2.

For a valuable digest of State laws regulating labor activity see Killingsworth, *State Labor Relations Acts*, Appendix A, by Beverley Kritzman Killingsworth, at 267 (1948). It shows the variety and empiric character of such legislation for a single decade (1937–47).

<sup>13</sup> The following list of rejected anti-closed-shop laws have been compiled from U. S. Dept. Labor, Division of Labor Standards, *Legislative Reports, 1939 to date*.

*Calif.*: A. B. 1560, 1941; S. B. 974, 1941; *Conn.*: H. B. 557, S. B. 823, 1939; H. B. 302, 1947; *Kans.*: H. B. 256, S. B. 410, 1939; S. C. Res. No. 10, 1945; *Ky.*: S. B. 231, 1946; *Mass.*: H. B. 864, 1947; *Minn.*: S. B. 102, 1947; *Miss.*: H. B. 714, 1942; H. C. R. 21, 1944 (semble); H. B. 171, 1946; H. B. 328, 1948; H. B. 1000, 1948; *Mo.*: S. B. 144, 1945; N. H.: H. B. 225, 1945; *Ohio*: H. B. 49, 1947; *Utah*: S. J. R. 15, H. J. R. 15, 1947.

<sup>14</sup> See, e. g., 25 U. S. News, No. 22, p. 11 (Nov. 26, 1948).

<sup>15</sup> Letter to Charles Hammond, Aug. 18, 1821, 15 Writings of Thomas Jefferson 330, 331 (Memorial ed., 1904).

<sup>16</sup> Letter to Samuel Kercheval, July 12, 1816, 15 *id.* at 32, 34. For similar expressions of Jefferson's alarm at what he felt to be the dangerous encroachment of the judiciary upon the other functions of government, see his letters to William B. Giles, April 20, 1807, 11 *id.* at 187, 191; to Caesar Rodney, Sept. 25, 1810, 12 *id.* at 424, 425; to John Taylor, May 28, 1816, 15 *id.* at 17, 21; to Spencer Roane, Sept. 6, 1819, 15 *id.* at 212; to Thomas Ritchie, Dec. 25, 1820, 15 *id.* at 297; to James Pleasants, Dec. 26, 1821, 12 Works of Thomas Jefferson, 213, 214 (Federal ed., 1905); to William T. Barry, July 2, 1822, 15 Writings, *supra*, at 388; to A. Coray, Oct. 31, 1823, 15 *id.* at 480, 487; to Edward Livingston, March 25, 1825, 16 *id.* at 112. See also the passage of Jefferson's Autobiography reprinted in 1 Writings, *supra*, at 120–22. And see Commager, *Majority Rule or Minority Rights* 28–38 (1943).

<sup>17</sup> In time, of course, constitutional obstacles may disappear or be removed. Yet almost twenty years elapsed between invalidation of the income tax in *Pollock v. Farmers' Loan & Trust Co.*, 158 U. S. 601, and adoption of the Sixteenth Amendment. And it took twenty years to establish the constitutionality of a minimum wage for women; it was put in

decisions run counter to prevailing opinion cannot be voted out of office and supplanted by men of views more consonant with it. They are even farther removed from democratic pressures by the fact that their deliberations are in secret and remain beyond disclosure either by periodic reports or by such a modern device for securing responsibility to the electorate as the "press conference." But a democracy need not rely on the courts to save it from its own un wisdom. If it is alert—and without alertness by the people there can be no enduring democracy—unwise or unfair legislation can readily be removed from the statute books. It is by such vigilance over its representatives that democracy proves itself.

Our right to pass on the validity of legislation is now too much part of our constitutional system to be brought into question. But the implications of that right and the conditions for its exercise must constantly be kept in mind and vigorously observed. Because the Court is without power to shape measures for dealing with the problems of society but has merely the power of negation over measures shaped by others, the indispensable judicial requisite is intellectual humility, and such humility presupposes complete disinterestedness. And so, in the end, it is right that the Court should be indifferent to public temper and popular wishes. Mr. Dooley's "th' Supreme Court follows th' illiction returns" expressed the wit of cynicism, not the demand of principle. A court which yields to the popular will thereby licenses itself to practice despotism, for there can be no assurance that it will not on another occasion indulge its own will. Courts can fulfill their responsibility in a democratic society only to the extent that they succeed in shaping their judgments by rational standards, and rational standards are both impersonal and communicable. Matters of policy, however, are by definition matters which demand the resolution of conflicts of value, and the elements of conflicting values are largely imponderable. Assessment of their competing worth involves differences of feeling; it is also an exercise in prophecy. Obviously the proper forum for mediating a clash of feelings and rendering a prophetic judgment is the body chosen for those purposes by the people. Its functions can be assumed by this Court only in disregard of the historic limits of the Constitution.

#### SUPREME COURT OF THE UNITED STATES

Nos. 27, 47, AND 34—OCTOBER TERM, 1948

American Federation of Labor, Arizona State Rederation of Labor, et al., v. American Sash & Door Company, et al., No. 27. Lincoln Federal Labor Union No. 19129, American Federation of Labor, et al., v. Northwestern Iron and Metal Company, et al., No. 47. George Whitaker, A. M. DeBruhl, T. G. Embler, et al., v. State of North Carolina, No. 34. On Appeal From the Supreme Courts of Arizona, Nebraska, and North Carolina

[January 3, 1949]

MR. JUSTICE RUTLEDGE, concurring.

I concur in the Court's judgment in No. 34, *Whitaker v. North Carolina*. The appellants were convicted under a warrant which charged only, in effect, that they had violated the statute "by executing a written agreement or contract" for a closed or union shop.<sup>1</sup> There was neither charge nor evidence that the

jeopardy by an equally divided Court in *Stettler v. O'Hara*, 243 U. S. 629, and found unconstitutional in *Adkins v. Children's Hospital*, 261 U. S. 525, which was not overruled until *West Coast Hotel Co. v. Parrish*, 300 U. S. 379, 400. The frustration of popular government, moreover, is not confined to the specific law struck down; its backwash drowns unnumbered projects that might otherwise be put to trial.

<sup>1</sup>The warrant, insofar as is material, charged that the appellants had entered into " . . . an illegal combination or conspiracy in restraint of the right to work and of trade or commerce in the State of North Carolina and against the public policy of the State of North Carolina, by executing a written agreement or contract by and between said employer and said Labor Unions and Organizations or combinations, whereby persons not members of said unions or organizations are denied the right to work for said employer, or whereby membership is made a condition of employment or continuation of said employment by said employer and whereby said named unions acquired an employment monopoly in any and all enterprises which may be undertaken by said employer are required to become or remain a member of a labor union or labor organization as a condition of employment or continuation of employment by said employer whereby said unions acquire an employment monopoly in any and all enterprises entered into by said employer in violation of House Bill #229, Session 1947, General Assembly of North Carolina, Chapter 328, 1947 Session Laws of North Carolina, and particularly sections 2-3 & 5 thereof, and Chapter 75 of the General Statutes of N. C. . . ."

employer, after the statute became effective, had refused employment to any person because he was not a member of a union. The charge, therefore, and the conviction were limited to the making of the contract. No other provision of the statute is now involved, as the state's attorney general conceded, indeed as he strongly urged, in the argument here. As against the constitutional objections raised to this application of the statute, I agree that the legislature has power to proscribe the making of such contracts, and accordingly join in the judgment affirming the convictions.

In No. 27, *American Federation of Labor v. American Sash & Door Company*, and in No. 47, *Lincoln Federal Labor Union v. Northwestern Iron & Metal Company*, as against the constitutional questions now raised, I am also in agreement with the Court's decision, but subject to the following reservation. Because no strike has been involved in any of the states of fact, no question has been presented in any of these cases immediately involving the right to strike or concerning the effect of the Thirteenth Amendment. Yet the issues so closely approach touching that right as it exists or may exist under that Amendment that the possible effect of the decisions upon it hardly can be ignored.<sup>2</sup> Strikes have been called throughout union history in defense of the right of union members not to work with nonunion men. If today's decision should be construed to permit a state to foreclose that right by making illegal the concerted refusal of union members to work with nonunion workers, and more especially if the decision should be taken as going so far as to permit a state to enjoin such a strike,<sup>3</sup> I should want a complete and thorough reargument of these cases before deciding so momentous a question.

But the right to prohibit contracts for union security is one thing. The right to force union members to work with nonunion workers is entirely another. Because of this difference, I expressly reserve judgment upon the latter question until it is squarely and inescapably presented. Although this reservation is not made expressly by the Court, I do not understand its opinion to foreclose this question.

MR. JUSTICE MURPHY concurs in this opinion insofar as it applies to Nos. 34 and 47.

Ads run by Arizona's right-to-work committee in 1946. In addition to such ads as these, we used some radio programs. We did not have sufficient funds for an extensive poster and billboard campaign.

#### THE VETERANS SPEAK IN DEFENSE OF THEIR RIGHT TO WORK

During the war we were praised for fighting to preserve freedom. But we returned from the war to discover that one of our fundamental freedoms has been taken away from us during our absence! This is the Right to Work, without joining a labor organization unless we choose to do so. We, the Veterans' Right-to-Work Committee of Arizona, believe that we and all citizens should have the privilege of association or nonassociation with all organizations. We will submit for the approval of the voters of Arizona, this

#### PROPOSED CONSTITUTIONAL AMENDMENT

No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual, or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization.

If you agree with us that citizens should have an opportunity to vote on issues which affect their fundamental rights, help us place this measure on the ballot!

Herbert M. Williams, Arizona Hotel, Phoenix, chairman; Mack D. McGuire, 2444 East Adams Street, Phoenix, Ariz.; Delmar E. Painting, 342 East Whitten Avenue, Phoenix, Ariz.; Robert L. Hart, 308 West Coolidge Avenue, Phoenix, Ariz.; Howard J. Dearborn, 342 East Whitten Avenue, Phoenix, Ariz.; James G. DeWolf, Post Office Box 3908, Phoenix.

<sup>2</sup> See note 3.

<sup>3</sup> The syllogism might well be: The decisions in the present cases permit a state to make "illegal" any discrimination against nonunion workers on account of that status in relation to securing or retaining employment; strikes for "illegal objects" are "unlawful"; "unlawful" strikes may be enjoined; a strike by union members against working with nonunion employees is a strike for an "illegal object"; therefore such a strike may be enjoined.

## VETERANS' RIGHT-TO-WORK COMMITTEE OF ARIZONA

P. O. Box 3908

Phoenix, Arizona

I am enclosing \$----- as my contribution to support this measure.  
 Name-----  
 Address-----

## REGISTER NOW

(Registration closes September 30)

SO YOU CAN VOTE AS A FREE AMERICAN FOR THE RIGHT TO WORK CONSTITUTIONAL  
 AMENDMENT

The right to work amendment will be voted on at the general election November 5, as constitutional amendment No. 106.

Union members are being compelled by self-seeking labor leaders to register, and will be forced to vote.

Every citizen should vote on this most vital measure, to preserve unto every individual his most fundamental privilege—the right to work.

Let's restrict unions in Arizona to improving the working rights and conditions of working people, and not dominating the political and economic existence of every Arizona citizen.

Any one can understand the clear and concise language of this constitutional amendment:

106 yes: No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual, or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization.

YOUR Dimes AND DOLLARS ARE NEEDED

(Mail this coupon today)

Veterans Right to Work Committee of Arizona: Herbert M. Williams, Arizona Hotel, Phoenix, Chairman; Mack D. McGuire, 2444 E. Adams Street, Phoenix; Delmar E. Painting, 342 East Whitten Avenue, Phoenix; Robert L. Hart, 308 West Coolidge Avenue, Phoenix; Howard J. Dearborn, 342 East Whitten Avenue, Phoenix; James G. DeWolf, Post Office Box 3908, Phoenix.

Post Office Box 3908

Phoenix, Arizona

I am enclosing \$----- as my contribution to support this measure.  
 Name-----  
 Address-----

Vote 106 YES ☒

## VETERANS' RIGHT-TO-WORK COMMITTEE IS BACKED BY VETERANS

From contacts with thousands of Arizona veterans, we are convinced that the Veterans' Right-To-Work Committee represents an overwhelming majority of veterans in Arizona.

A vast number of veterans since their return have been forced into labor organizations and cannot actively or openly support the committee for fear of being blacklisted or otherwise discriminated against by dictatorial labor leaders.

The committee is not a front for employers or business organizations for the right to earn a living.

The circulation of petitions has been primarily accomplished by veterans, their families and friends on a voluntary basis. The committee is not soliciting a "war chest"—the labor leaders are doing this. Opposition has come from labor officials who feel they will lose their dictatorial monopoly and control on the rights of all citizens who must seek or have gainful employment. Veterans desiring to work in almost every line of endeavor are forced to pay initiation fees and regularly thereafter contribute to labor organizations. The support and contributions have come through the efforts of veterans, their families and friends.

We, the undersigned veterans, believe the issue of paying tribute for the right to work should be decided by a majority of the Arizona electorate, not by a few dictatorial labor leaders.

We fought dictatorship to preserve your and our liberty and democracy.

Support the following amendment to our constitution:

"No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization."

This advertisement is paid for by the undersigned veterans from their personal funds:

Michael E. Fay, 809 W. McKinley; L. E. Masoner, 1209 No. 17th St.; Edwin V. Panosh, R Route 3, Box 93; Lamar Blaksten, 809 So. 26th; Ira M. Richardson, 1003 E. Indianola; Tim J. Mullet, 421 W. Roosevelt; W. H. Lunsford, 509 No. 9th Ave.; Robert P. Cowie, 621 No. 4th Ave.; Edward R. Washulka, Route 5, Box 762; D. W. Sorreson, 2206 No. Evergreen St.; Vernon M. Brown, Route 1, Box 765; Guy Stillman, 2120 Encanto.

We are opposed to dictatorship by labor, business or any other group.

This is a complete and accurate account of receipts and disbursements made by the Veterans' Right-to-Work Committee, and filed with the Arizona secretary of State following the 1946 campaign.

PHOENIX, ARIZ., *October 25, 1946.*

SECRETARY OF STATE,

*State Capitol, Phoenix, Ariz.*

DEAR SIR: A statement, as of October 21, 1946, of contributions received by and disbursements made by the Veterans' Right-to-Work Committee in presenting the affirmative arguments for the enactment of constitutional amendment No. 106, is hereby filed as required by article 14, chapter 55, Arizona Code Annotated, 1939.

#### STATEMENT

Contributions received.....	\$18, 439. 26
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#### DISBURSEMENTS

Professional services and/or fees.....	5, 302. 00
Automobile expense.....	132. 67
Office expense.....	2, 001. 14
Office supplies.....	92. 24
Traveling expense.....	675. 49
Advertising expense.....	7, 359. 19
Miscellaneous expense.....	266. 39

Total disbursements.....	15, 829. 12
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Itemized statements for above accounts are attached hereto and are made a part of this statement.

Yours very truly,

VETERANS' RIGHT-TO-WORK COMMITTEE,  
By \_\_\_\_\_,  
Chairman.  
By \_\_\_\_\_,  
Treasurer.

#### *Contributions received*

July 3, 1946. Veterans' Right-to-Work Committee (petition fund)....	\$2, 034. 76
July 3, 1946. United Veterans for Good Government, Arizona Post No. 1.....	1, 620. 00
July 11, 1946. United Veterans for Good Government, Arizona Post No. 1.....	50. 00
August 1, 1946. United Veterans for Good Government, Arizona Post No. 1.....	300. 00

*Contributions received—Continued*

August 15, 1946. United Veterans for Good Government, Arizona Post No. 1-----	\$100. 00
August 28, 1946. United Veterans for Good Government, Arizona Post No. 1-----	1, 250. 00
August 30, 1946. United Veterans for Good Government, Arizona Post No. 1-----	525. 00
September 6, 1946. United Veterans for Good Government, Arizona Post No. 1-----	100. 00
September 21, 1946. United Veterans for Good Government, Arizona Post No. 1-----	2, 000. 00
September 23, 1946. J. H. Roll, Roll, Ariz-----	25. 00
September 25, 1946. Rufus Sikes, Globe, Ariz-----	10. 00
September 25, 1946. Leon S. Jacobs, Phoenix, Ariz-----	10. 00
September 27, 1946. S. L. Butler, Glendale, Ariz-----	50. 00
September 30, 1946. Harold M. Smith, Superior, Ariz-----	10. 00
September 30, 1946. United Veterans for Good Government, Arizona Post No. 1-----	1, 500. 00
October 2, 1946. United Veterans for Good Government, Arizona Post No. 1-----	1, 000. 00
October 5, 1946. A. E. Pettit, Glendale, Ariz-----	25. 00
October 5, 1946. Otis L. Cook, Glendale, Ariz-----	10. 00
October 5, 1946. United Veterans for Good Government, Arizona Post No. 1-----	1, 000. 00
October 5, 1946. William McFrederick, Glendale, Ariz-----	10. 00
October 5, 1946. Anonymous cash-----	396. 00
October 9, 1946. United Veterans for Good Government, Arizona Post No. 1-----	1, 000. 00
October 10, 1946. United Veterans for Good Government, Arizona Post No. 1-----	3, 000. 00
October 11, 1946. Anonymous cash-----	100. 00
October 14, 1946. United Veterans for Good Government, Arizona Post No. 1-----	2, 000. 00
October 14, 1946. G. T. Herrington, Flagstaff, Ariz-----	10. 00
October 17, 1946. Anonymous cash-----	250. 00
17 contributions (less than \$10)-----	43. 50
Total contributions-----	<u>18, 439. 26</u>

## PROFESSIONAL SERVICES AND/OR FEES

July 9 1946. Check No. 175, A. H. McLellan, Jr. Phoenix, Ariz-----	50. 00
July 17 1946. Check No. 181, Olive Barnes, Phoenix, Ariz-----	18. 00
July 29 1946. Check No. 184, Sturm & Wynne, Phoenix, Ariz-----	500. 00
August 30 1946. Check No. 201, Sturm & Wynne, Phoenix, Ariz-----	500. 00
August 30 1946. Check No. 203, Helene Ladd, Phoenix, Ariz-----	90. 00
August 30 1946. Check No. 204, Legia Mendenhall, Phoenix, Ariz-----	25. 00
September 9 1946. Check No. 210, Marjorie Wildman, Phoenix, Ariz-----	150. 00
September 9 1946. Check No. 211, Helene Ladd, Phoenix, Ariz-----	36. 00
September 20 1946. Check No. 262, Legia Mendenhall, Phoenix, Ariz-----	85. 00
September 20 1946. Check No. 263, Helene Ladd, Phoenix, Ariz-----	72. 00
September 20 1946. Check No. 264, Marjorie Wildman, Phoenix, Ariz-----	150. 00
September 20 1946. Cash, L. Murray, Phoenix, Ariz-----	15. 00
September 25 1946. Cash, L. Murray, Phoenix, Ariz-----	15. 00
September 26 1946. Cash, Frank E. Murphy, Jr., Tucson, Ariz-----	50. 00
September 27 1946. Check No. 267, Northside branch, Veterans' Right-to-Work Committee, promotional expense-----	365. 00
September 30 1946. Check No. 272, Sturm & Wynne, Phoenix, Ariz-----	500. 00
October 4 1946. Check No. 277, Vira Decker, Phoenix, Ariz-----	30. 00
October 4 1946. Check No. 278, Morely E. Fox, Phoenix, Ariz-----	150. 00
October 5 1946. Check No. 279, Northside branch, Veterans' Right-to-Work Committee, promotional expense-----	501. 00
October 5 1946. Cash, L. Murray, Phoenix, Ariz-----	15. 00
October 10 1946. Check No. 290, Safford branch, Veterans' Right-to-Work Committee-----	500. 00
October 10 1946. Cash, L. Murray, Phoenix, Ariz-----	25. 00
October 12 1946. Check No. 292, Douglas branch, Veterans' Right-to-Work Committee-----	500. 00

## PROFESSIONAL SERVICES AND/OR FEES—continued

October 14 1946. Check No. 294, Northside branch, Veterans' Right-to-Work Committee, promotional expense-----	\$224. 60
October 15 1946. Check No. 295, Carlos Montano, Phoenix, Ariz-----	239. 00
October 17 1946. Check No. 296, LeRoy Struble, Phoenix, Ariz-----	200. 00
October 17 1946. Check No. 297, Julian DeVries, Phoenix, Ariz-----	65. 00
October 17 1946. Cash, James V. Robbins, Nogales, Ariz-----	15. 00
October 17 1946. Cash, James Murray, Phoenix, Ariz-----	25. 00
October 18 1946. Cash, S. P. Hughes, Phoenix, Ariz-----	15. 00
October 18 1946. Cash, miscellaneous organizational expense-----	186. 00
Total-----	<u>5302. 00</u>

## AUTOMOBILE EXPENSE

July 18, 1946. Check No. 182, Sturm & Wyne, Phoenix, Ariz-----	31. 80
Aug. 5, 1946. Check No. 192, Don Douthit Superservice, Phoenix, Ariz--	25. 69
Aug. 15, 1946. Check No. 194, J. D. Wyne, Phoenix, Ariz-----	31. 80
Sept. 10, 1946. Check No. 215, Don Douthit Superservice, Phoenix, Ariz--	14. 66
Oct. 9, 1946. Check No. 288, Don Douthit Superservice, Phoenix, Ariz--	28. 72
Total-----	<u>132. 67</u>

## OFFICE EXPENSE

July 10, 1946. Check No. 177, postage stamps-----	30. 00
July 12, 1946. Check No. 179, stenographic service-----	167. 50
July 15, 1946. Check No. 180, bookkeeping service-----	100. 00
July 17, 1946. Cash, safety-deposit-box refund-----	16. 00
July 29, 1946. Check No. 184, office rent-----	71. 40
July 29, 1946. Check No. 184, stenographic service-----	167. 50
July 29, 1946. Check No. 184, miscellaneous items-----	17. 32
July 29, 1946. Check No. 185, bookkeeping service-----	100. 00
July 29, 1946. Check No. 186, telephone tolls-----	9. 76
July 29, 1946. Check No. 187, telephone and tolls-----	83. 51
July 29, 1946. Check No. 188, typewriter rental-----	3. 50
Aug. 15, 1946. Check No. 195, stenographic service-----	134. 14
Aug. 15, 1946. Check No. 196, bookkeeping service-----	100. 00
Aug. 20, 1946. Check No. 197, Eck's Duplicating Service-----	9. 10
Aug. 20, 1946. Checks Nos. 198 and 199, postage stamps-----	30. 00
Aug. 30, 1946. Check No. 201, office rent-----	71. 40
Aug. 30, 1946. Check No. 201, stenographic service-----	87. 50
Aug. 30, 1946. Check No. 202, bookkeeping service-----	100. 00
Sept. 10, 1946. Check No. 214, typewriter rental-----	3. 50
Sept. 10, 1946. Check No. 216, telephone and tolls-----	46. 19
Sept. 17, 1946. Check No. 258, bookkeeping service-----	100. 00
Sept. 30, 1946. Check No. 271, telephone and tolls-----	70. 47
Sept. 30, 1946. Check No. 272, stenographic service-----	182. 32
Sept. 30, 1946. Check No. 272, office rent-----	71. 40
Sept. 30, 1946. Check No. 273, bookkeeping service-----	100. 00
Oct. 1, 1946. Check No. 280, typewriter rental-----	3. 50
Oct. 14, 1946. Check No. 293, bookkeeping service-----	150. 00
Oct. 17, 1946. Cash, telephone tolls-----	7. 13
Total-----	<u>2, 001. 14</u>

## OFFICE SUPPLIES

July 10, 1946. Check No. 176, Peterson, Brooke, Steiner & Wist, Phoenix-----	19. 79
Aug. 5, 1946. Check No. 189, Walsh Bros., Phoenix-----	1. 28
Aug. 5, 1946. Check No. 190, Bower Co., Phoenix-----	30. 74
Sept. 4, 1946. Check No. 206, John Tyler Printing & Publishing Co., Phoenix-----	2. 55
Sept. 10, 1946. Check No. 217, Bower Co., Phoenix-----	23. 29
Sept. 21, 1946. Bank charge, check book-----	1. 80

## OFFICE SUPPLIES—continued

Oct. 8, 1946. Check No. 281, Bower Co., Phoenix-----	\$9. 65
Oct. 9, 1946. Check No. 285, G. G. Morgan Printing Co., Phoenix-----	2. 43
Oct. 9, 1946. Check No. 286, H. M. Clark Office Supply Co., Phoenix---	. 71
Total-----	92. 24

## TRAVELING EXPENSE

July 8, 1946. Check No. 178, trip to Prescott-----	20. 00
Sept. 8, 1946. Check No. 209, trip to Tucson, Douglas, etc-----	50. 00
Sept. 26, 1946. Check No. 266, trip to Tucson-----	18. 62
Oct. 5, 1946. Cash, airplane trip to Yuma, Tucson, etc-----	200. 00
Oct. 10, 1946. Cash, trip to Tucson, Bisbee, Douglas, etc-----	100. 00
Oct. 11, 1946. Cash, trip to Prescott-----	35. 00
July 1, 1946—Oct. 21, 1946. Cash, miscellaneous trips re organizational meetings-----	200. 00
Oct. 17, 1946. Cash, trip to Nogales-----	51. 87
Total-----	675. 49

## ADVERTISING

July 3, 1946. Check No. 183, secretary of state, publicity-----	235. 00
Aug. 27, 1946. Check No. 200, Eck's Duplicating Service-----	3. 90
Sept. 4, 1946. Check No. 206, John Tyler Printing & Publishing Co-----	23. 03
Sept. 10, 1946. Check No. 212, secretary of state, balance due-----	1. 24
Sept. 10, 1946. Check No. 213, Eck's Duplicating Service-----	8. 75
Sept. 10, 1946. Check No. 218, postage stamps for circulars-----	20. 00
Sept. 14, 1946. Check No. 223, Southwest Veteran-----	20. 00
Sept. 14, 1946. Check No. 220, Brewery Gulch Gazette-----	15. 00
Sept. 14, 1946. Check No. 221, Ajo Copper News-----	12. 00
Sept. 14, 1946. Check No. 222, Bisbee Daily Review-----	22. 40
Sept. 14, 1946. Check No. 223, Buckeye Valley News-----	10. 00
Sept. 14, 1946. Check No. 224, Casa Grande Dispatch-----	10. 00
Sept. 14, 1946. Check No. 225, Chandler Arizonan-----	8. 00
Sept. 14, 1946. Check No. 226, Coolidge Examiner-----	15. 00
Sept. 14, 1946. Check No. 227, Douglas Daily Dispatch-----	15. 00
Sept. 14, 1946. Check No. 228, Coconino Sun-----	15. 00
Sept. 14, 1946. Check No. 229, Graham County Guardian-----	10. 00
Sept. 14, 1946. Check No. 230, Copper Era-----	10. 00
Sept. 14, 1946. Check No. 231, Arizona Silver Belt-----	11. 20
Sept. 14, 1946. Check No. 232, Gilbert Enterprise-----	10. 00
Sept. 14, 1946. Check No. 233, Glendale News-----	10. 00
Sept. 14, 1946. Check No. 234, Arizona Record-----	10. 00
Sept. 14, 1946. Check No. 235, Holbrook Tribune News-----	15. 00
Sept. 14, 1946. Check No. 236, Mohave County Miner-----	12. 00
Sept. 14, 1946. Check No. 237, Mesa Journal-Tribune-----	14. 00
Sept. 14, 1946. Check No. 238, Nogales Daily Herald-----	15. 00
Sept. 14, 1946. Check No. 239, Prescott Evening Courier-----	15. 00
Sept. 14, 1946. Check No. 240, Tucson Daily Citizen-----	60. 00
Sept. 14, 1946. Check No. 241, Arizona Republic-Gazette-----	80. 00
Sept. 14, 1946. Check No. 242, Arizona News-----	40. 00
Sept. 14, 1946. Check No. 243, Yuma Daily Sun-----	12. 00
Sept. 14, 1946. Check No. 244, Tucsonesse-----	13. 00
Sept. 14, 1946. Check No. 245, St. John's Herald Observer-----	10. 00
Sept. 14, 1946. Check No. 246, Williams News-----	10. 00
Sept. 14, 1946. Check No. 247, Winslow Mail-----	15. 00
Sept. 14, 1946. Check No. 248, Glendale Herald-----	10. 00
Sept. 14, 1946. Check No. 249, Somerton Star-----	15. 00
Sept. 14, 1946. Check No. 250, Yavapai County Messenger-----	10. 00
Sept. 14, 1946. Check No. 251, Nogales International-----	15. 00
Sept. 14, 1946. Check No. 252, Arizona Range News-----	10. 00
Sept. 14, 1946. Check No. 253, Arizona Farmer-----	56. 00
Sept. 14, 1946. Check No. 254, Southside Progress-----	10. 00



## ADVERTISING—continued

Sept. 14, 1946. Check No. 255, Temple Daily News-----	\$10. 00
Sept. 17, 1946. Check No. 257, Clipping Service-----	6. 00
Sept. 17, 1946. Check No. 259, Leach & Moulton (advertising service) -	100. 00
Sept. 19, 1946. Check No. 260, Arizona News-----	50. 00
Sept. 23, 1946. Check No. 265, KTAR (radio)-----	1, 785. 50
Sept. 27, 1946. Check No. 268, 3,000 stamped envelopes for circulars--	66. 64
Sept. 28, 1946. Check No. 269, Leach & Moulton (advertising service) -	100. 00
Sept. 30, 1946. Check No. 270, The Messenger Printing Co-----	20. 55
Oct. 1, 1946. Check No. 274, KTUC (radio)-----	753. 00
Oct. 1, 1946. Check No. 275, KPHO (radio)-----	518. 70
Oct. 2, 1946. Check No. 276, postage for circulars-----	20. 00
Oct. 9, 1946. Check No. 283, Clipping Service-----	13. 08
Oct. 9, 1946. Check No. 284, C. F. Grams & Co. (radio)-----	63. 70
Oct. 9, 1946. Check No. 286, H. M. Clark Office Supply Co-----	15. 30
Oct. 9, 1946. Check No. 287, Eck's Duplicating Service-----	29. 20
Oct. 10, 1946. Check No. 289, G. E. Arnold Co. Statewide Newspaper Advertising-----	1, 000. 00
Oct. 10, 1946. Check No. 291, G. E. Arnold Co. Statewide Newspaper Advertising-----	1, 500. 00
Oct. 21, 1946. Check No. 298, KOY (radio)-----	375. 00
Total-----	<u>7, 359. 19</u>

## MISCELLANEOUS

Sept. 17, 1946. Check No. 256, subscription to "Fax"-----	3. 00
Oct. 9, 1946. Check No. 282, subscription to Mesa Journal Tribune----	2. 50
Aug. 5-Oct. 8, 1946. Various dinners and meals for organizational meetings-----	260. 89
Total-----	<u>266. 39</u>

*Tucson branch, veterans' right-to-work committee*

## STATEMENT (OCT. 25, 1946)

Contributions received-----	\$3, 000. 00
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## DISBURSEMENTS

KTUC, Tucson, radio advertising-----	750. 00
KVOA, Tucson, radio advertising-----	243. 00
Professional fees, radio programs-----	150. 00
Tucson newspapers, advertising-----	153. 64
Headquarters' rental-----	50. 00
Mailing expense, advertising circulars-----	1, 166. 20
Spencer & Sons, Tucson, advertising sign-----	75. 00
Bill Parsons, Tucson, promotional expense-----	10. 00
Murphy Agency, Tucson, advertising-----	96. 00
Headquarters expense-----	156. 38
Total Disbursements-----	<u>2, 850. 22</u>

NOTE.—From information furnished by Tucson headquarters.

PHOENIX, ARIZ., *October 31, 1946.*

SECRETARY OF STATE.

*State Capitol, Phoenix, Ariz.*

DEAR SIR: Herewith is a supplemental statement of contributions received by and disbursements made by the Veterans' Right-to-Work Committee in presenting the affirmative arguments for the enactment of constitutional amendment No. 106 and as required by article 14, chapter 55, Arizona Code Annotated, 1939.

## STATEMENT

Contributions received..... \$9,335.00

## DISBURSEMENTS

Professional services and/or fees.....	1,267.50
Office expense.....	398.15
Advertising expense.....	8,311.04
Election day expense.....	701.65
Miscellaneous expense.....	10.00
Total disbursements.....	10,688.34

Yours very truly,

VETERANS' RIGHT TO WORK COMMITTEE,  
By \_\_\_\_\_, *Chairman*.  
By \_\_\_\_\_, *Treasurer*.

After Senate bill 65 was passed by Arizona's Eighteenth Legislature, Governor Sidney P. Osborn, a great friend of labor, said:

MARCH 20, 1947.

Hon. HUBERT H. D'AUTREMONT,

*President, Arizona State Senate,*

*Eighteenth Legislature, Regular Session.*

MY DEAR MR. PRESIDENT: Senate bill No. 65, An act relating to employment prohibiting the denial of employment because of nonmembership in a labor organization; prohibiting agreements excluding any person from employment because of nonmembership in a labor organization; prohibiting strikes or picketing to induce violation of this act; making illegal compelling or attempting to compel a person to join a labor organization or leave his employment against his will; prohibiting conspiracies to cause the discharge of any persons because of nonmembership in a labor organization; prescribing penalties; and declaring an emergency is primarily to implement the constitutional amendment prohibiting the closed shop in Arizona, submitted to the people and by them approved. This measure includes some legislation not necessarily connected with the above-mentioned constitutional amendment, however, it is, generally speaking, legislation in conformity with and carrying out the mandate given by the people at the election last November.

Notwithstanding how anyone may personally feel relative to legislation approved by the people at the polls, the fact remains that when the sovereign people have expressed their views, it is incumbent upon all citizens and all public officials to accept, abide by, and carry into effect their mandate—otherwise democracy is destroyed. No greater disservice can be done to democracy than to circumvent or nullify the people's mandate. When the people speak their decision must be all-compelling, otherwise the American system of government is destroyed and democracy dies.

For these reasons I have today approved Senate bill No. 65 and filed the same with the Secretary of State.

May I also point out that Senate bill No. 65 does not carry the emergency clause, and, therefore, cannot become effective until 90 days after the close of the session at which it was passed. This gives those who may oppose this legislation opportunity to file referendum petitions against it. If this action is taken, Senate bill No. 65 cannot become effective until it is submitted to the voters at the next regular general election and by them approved. If the voters at that election disapprove the measure, it is dead.

Sincerely,

\_\_\_\_\_  
Governor.

Ads such as these were run in 1948 by our right-to-work committee. Using our experience gained in 1946, we concentrated our effort on simple factual ads in papers and radio.

# SO MANY PEOPLE ARE ASKING "WHY MUST WE NOW VOTE AGAIN ON RIGHT TO WORK?"

## HERE'S THE ANSWER

1. In 1946 we adopted the right-to-work amendment.
2. But the amendment couldn't carry its own enforcement provisions.
3. The next legislature supplied these by passing Senate bill 65.
4. Senate bill 65 was signed by the late Governor Osborn, himself a staunch friend of labor.
5. Labor leaders petitioned for a referendum.
6. Now it's up to all the voters at next month's election.
7. It goes on the ballots as proposal 300-yes and 301-no.
8. 300-yes means that we ratify senate bill 65, enforcing the right-to-work amendment, to outlaw the closed shop "racket" and guarantee equal job opportunity for nonunion as well as union workers.
9. 301-no, or losing this election by default, would show that we didn't mean what we voted in 1946 and that the labor bosses can then continue to expand their closed-shop dictatorship, instead of having to act only with the approval of democratic unions of voluntary membership.

Help yourself by informing the electorate vote 300 Yes X.

Veterans right to work committee: Dilworth C. Brinton, chairman, 715 East First Street, Mesa, Ariz.; Frank E. Murphy, Jr., Tucson, Ariz.; John J. Rhodes, Mesa, Ariz.; Charles Flake, Mesa, Ariz.; James V. Robbins, Nogales, Ariz.; Howard J. Dearborn, Phoenix, Ariz.

[Entered in the information pamphlet distributed at the polls at the primary election]

## ARGUMENT ADVOCATING THE APPROVAL OF SENATE BILL 65

At the last general election, and after a full and complete presentation of all of the facts, the people overwhelmingly amended the Arizona constitution, so as to safeguard the right of every person to earn a livelihood, whether or not he chose to belong to a labor organization. This was done by the adoption of the veterans' right-to-work constitutional amendment No. 106 Yes.

Obedient to the will of the people, the legislature enacted and Governor Osborn signed and approved senate bill No. 65 of the 1947 regular session. This act of the legislature has now been referred to the people for their approval or disapproval at the 1948 general election.

Senate bill 65 is strictly in aid of the right-to-work constitutional amendment. It defines labor organizations, restates the right of any person to work, outlaws agreements abrogating that right, condemns compulsory membership in labor organizations and denounces conspiracies designed to in any way deny the free exercise of the right of an individual to earn a livelihood. It makes violators responsible for damage done and permits injunctive relief to those threatened with injury. In brief, it makes the right-to-work amendment an actual responsive and active force ever safeguarding and protecting the person who works.

It denies to no one the right to join a labor union. It does not defeat or affect the right of collective bargaining, or the right to strike. It does, however, require the union leader to earn the voluntary respect and allegiance of the rank and file of the union by wise leadership and demonstrated benefits, rather than by enforced membership and intimidation.

By their overwhelming approval in every county of the State the people have placed this issue beyond partisan politics.

Vote "Yes" on proposition No. 300 and complete the job of preserving and perpetuating the freedom of all persons to earn the livelihood for their families and themselves.

DILWORTH BRINTON,  
*Chairman, Veterans' Right-to-Work Committee.*

## YOUR BRAINS?

The Arizona Labor Journal editorial of September 9 stated "we have dealt the reaction boys a body blow in the primaries, now let's get out and "beat their damn brains out."

Are you one of 1 of the 61,000 Arizona voters who voted for the adoption of the right-to-work constitutional amendment making a majority in every county?

Once again all those who do not bow down to the Arizona labor leaders are being threatened and intimidated. The people of Arizona cannot be intimidated, even by threats to "beat their damn brains out."

Referred measure 300 as enacted by both houses of the Arizona Legislature and signed by the working people's friend, Governor Osborn, provides for court action for damages or injunctive relief to protect a man's right to work without joining or belonging to a union.

Right-to-work measure 300 denies to no one the right to join a labor union, and does not defeat or affect the right to strike or the right of collective bargaining.

Referendum measure 300 makes the right-to-work amendment an actual, responsive and active force, ever safeguarding and protecting the person who works.

In spite of all the dire predictions of labor leaders Arizona labor under the right-to-work amendment is now earning the highest wages in history.

Let's complete the job, vote right-to-work measure 300, yes.

Veterans' Right-To-Work Committee: Dilworth C. Brinton, chairman, 715 East First Street, Mesa, Ariz.; Frank E. Murphy, Jr., Tucson, Ariz.; John J. Rhodes, Mesa, Ariz.; Charles Flake, Mesa, Ariz.; James V. Robbins, Nogales, Ariz.; Howard J. Dearborn, Phoenix, Ariz.

#### HOW THE RIGHT TO WORK MEASURE 300 YES PROTECTS THE WORKING MAN

300 yes gives the individual the right to go to the courts to protect his right to work without joining a union.

300 yes saves and protects the right of unions to strike, picket, and bargain collectively.

300 yes stops unions from forcing men to join and pay dues through closed union shop contracts.

300 yes protects the individual and gives him the free choice of working as a union or nonunion man.

300 yes eliminates the evils of the closed unions. Because it permits every person to work without joining a union.

300 yes will make union leaders responsible to the members because they can't force men to belong or pay dues—they must join voluntarily.

300 yes will curb intimidation, violence, and threats by labor leaders.

If the labor leaders should be successful in their efforts to defeat this measure, they will accept the vote of the electorate as approval of all their actions and extend union control, and domination to all employment in Arizona.

Right-to-work vote yes 300.

Veterans' Right-To-Work Committee: Dilworth C. Brinton, chairman, 715 East First Street, Mesa, Ariz.; Frank E. Murphy, Jr., Tucson, Ariz.; John J. Rhodes, Mesa, Ariz.; Charles Flake, Mesa, Ariz.; James V. Robbins, Nogales, Ariz.; Howard J. Dearborn, Phoenix, Ariz.

#### THE PLAIN TRUTH ABOUT SENATE BILL 65

**Q.** What actual changes does Senate bill 65 enforce upon the labor bosses?

(a) It abolishes the closed shop.

(b) It abolishes the practice of compelling men to join unions.

(c) It makes the use of force, intimidation, or compulsion illegal.

**Q.** Does Senate bill 65 abolish unions or deprive them of any just rights?

(a) It does not. No unions in America have accomplished more for their members than have the Railroad Brotherhoods, operating under open shop conditions since 1926.

**Q.** Does Senate bill 65 prevent men from joining unions or prevent unions from recruiting members?

(a) It does not. It leaves the workers free to join any betterment organization they choose. It leaves the unions free to solicit membership by any legal means.

**Q.** Does Senate bill 65 abridge the right of collective bargaining or the right to strike?

(a) It does not. The only thing it abridges is the power of union bosses to force men out on strike against their will.

**Q.** Does Senate bill 65 rob labor of any of its legitimate gains?

(a) It does not. The legitimate reforms in labor-management relations in America are secured by law and protected by the courts.

Q. Why did Arizona pass the "Right to Work" amendment by a huge majority in the face of the union bosses' \$200,000 opposition?

(a) Because Arizona, characteristically, believes in equal justice for all men and because Arizonans want to be assured that this State cannot be made a battleground by imported labor bosses, stifling Arizona's growth.

Q. What is the position of the Communist Party on Senate bill 65?

(a) The Communist Party has announced itself in support of the closed shop and as opposed to Senate bill 65. It recognizes the closed shop as its best protection.

Q. What of the charge that the right to work measure (Senate bill 65) is financed by "out-of-state corporations"?

(a) The labor bosses are fully aware that corporations cannot make political contributions under penalty of Federal law. The fight for Senate bill 65 is financed by Arizona veterans of World War II and independent Arizona business and working men.

Q. Does Senate bill 65 affect only the labor unions?

(a) It enforces the rights of the individual worker as against employers and unions alike. It makes it illegal for an employer to withhold a job from a competent worker because of union membership or nonmembership; because of religion or racial extraction. It makes fair play obligatory on unions and employers alike.

Q. In what way will Senate bill 65 affect prices?

(a) Only to the extent that it encourages good workmen to do an honest day's work in exchange for a day's pay.

Q. Why are the union bosses so afraid of Senate bill 65? Why are they spending so much to import out-of-state canvassers to defeat it?

(a) Not all union leaders are opposed to Senate bill 65. There are a great many of them who hold their positions through real service to their members. Those who are making deliberate misrepresentations are those who have been able to maintain themselves upon the forced tribute paid them by workers who must hold their favor to hold their jobs.

Q. How does Senate bill 65 square with the constitution?

(a) The founding fathers guaranteed the rights to "life, liberty and the pursuit of happiness."

None of these rights can be secured to anyone who does not have the right to work without paying tribute to anyone!

Q. What do the churches say about Senate bill 65?

(a) The Most Reverend Bishop Daniel J. Gercke, of the Catholic Diocese of Tucson, says: "The Catholic Church claims that it is a God-given right for every working man to belong to a union or to remain outside a union for the purpose of obtaining a just wage that will insure him a proper living for himself and his family."

The late Heber J. Grant, when president of the Church of Jesus Christ of Latter Day Saints said: "How much love is there in starving your neighbor because he will not surrender his manhood and individuality and allow a labor union to direct his labor?"

Protect your right to work.

VOTE "YES" 300

RIGHT TO WORK COMMITTEE.

VOTE "YES" 300—THE CLOSED AND UNION SHOP GIVES THE UNION LEADER COMPLETE AND ABSOLUTE CONTROL OF THE PERSONS WHO MUST WORK

No one owns the right to join a union. Unions can grant, withhold, or suspend membership as they see fit. For that reason no union should have a monopoly of jobs, as they do have under a closed or union shop contract.

Every person must have the right to work. And is entitled to have that right protected.

Right-to-work measure 300 "yes" gives the individual an opportunity in court to protect this most important of all rights.

This measure preserves unto the union the right to bargain collectively, to strike, and to picket.

Good unions and their leaders have nothing to fear at the hands of American courts and juries.

This law will protect the individual worker and his family from violence and intimidation.

For these reasons the following farm groups of Arizona, as they did 2 years ago, have all endorsed the right-to-work principle, and have, by appropriate action gone on record in support of Senate bill 65.

Arizona Farm Bureau Federation, SRVWU Association, Arizona Dairy-men's League, Arizona Co-op Cotton Growers' Association, Arizona Vegetable Growers' Association, Central Arizona Cattle Feeders' Association, Agricultural Commodities, Inc., Roosevelt Irrigation District, Roosevelt Water Conservation District, Agua Fria Soil Conservation District, Buckeye Water Conservation District, Arizona Crop Improvement Association, Arizona Beekeepers' Association, Arizona Wool Growers' Association, Arizona Cattle Growers' Association, Yuma Mesa Fruit Growers' Association, Yuma Producers' Co-operative Association, Yuma County Water Users' Association, New River Soil Conservation District, Arizona Date Institute, Arizona Citrus Exchange.

RIGHT TO WORK—VOTE YES 300 ☒

#### WHERE DO CHURCHES STAND ON SENATE BILL 65?

The Most Reverend Daniel J. Gerecht, bishop, Catholic diocese of Tucson, says:

"The Catholic Church claims that it is a God-given right for every working man to belong to a union or to remain outside a union for the purpose of securing a just wage that will insure him a proper living for himself and his family."—(Tucson Citizen, October 23.)

The late Heber J. Grant, when president of the Church of Jesus Christ of Latter Day Saints, said:

"How much of love is there in starving your neighbor because he will not surrender his manhood and individuality and allow a labor union to direct his labor?"

VOTE "YES" 300

VETERANS RIGHT TO WORK COMMITTEE,  
DILWORTH BRINTON.  
JOHN RHODES.  
JAMES ROBBINS.  
CHARLES FLAKE.  
FRANK MURPHY, Jr.

Copies of our 1948 statement of expenses. Senator Pepper had photostats of this report at the time of my testimony.

PHOENIX, ARIZ., November 30, 1948.

SECRETARY OF STATE,  
*State Capitol, Phoenix, Ariz.*

DEAR SIR: Herein is the final statement of contributions received by and disbursements made by the Veterans' Right To Work Committee in the presentation of the affirmative arguments for the enactment of referendum measure relating to Senate bill 65, No. 300 (yes).

Statements itemizing the above accounts are attached hereto and they are made a part of this statement.

Yours very truly,

VETERANS' RIGHT TO WORK COMMITTEE,  
By ———, *Chairman.*  
By ———, *Treasurer.*

## CONTRIBUTIONS RECEIVED

Date	Received from—	Amount
July 22, 1948	United Veterans for Good Government	\$500.00
Do.	do.	300.00
July 28, 1948	do.	200.00
Aug. 13, 1948	do.	500.00
Sept. 3, 1948	do.	1,000.00
Sept. 15, 1948	do.	1,500.00
Sept. 25, 1948	do.	1,000.00
Sept. 30, 1948	do.	1,500.00
Do.	J. H. Roll	25.00
Do.	Ray A. McKinnie	20.00
Oct. 1, 1948	G. V. Herrington	10.00
Oct. 5, 1948	United Veterans for Good Government	1,500.00
Do.	N. K. Williams	2.00
Oct. 12, 1948	D. S. Holsclaw	5.00
Oct. 13, 1948	United Veterans for Good Government	1,000.00
Do.	Emery E. Oldaker	20.00
Oct. 15, 1948	United Veterans for Good Government	2,000.00
Oct. 16, 1948	Dwight S. Hudson	25.00
Oct. 18, 1948	Anonymous cash	25.00
Oct. 20, 1948	United Veterans for Good Government	3,500.00
Oct. 22, 1948	C. W. Davisson	5.00
Do.	Paul B. Britner	10.00
Do.	United Veterans for Good Government	3,500.00
Oct. 25, 1948	do.	3,000.00
Oct. 27, 1948	do.	2,000.00
Oct. 29, 1948	Anonymous cash	100.00
Nov. 1, 1948	United Veterans for Good Government	1,170.80
Nov. 5, 1948	Anonymous cash	100.00
Total contributions		24,517.80

## DISBURSEMENTS

July 22, 1948	Secretary of state—Deposit on printing affirmative argument in publicity pamphlets	\$250.00
Do.	O'Neil letter shop—Mimeographing 6,000 circulars	175.74
Do.	Purchase 1,000 3-cent postage stamps	30.00
Do.	Professional services, Evelyn Olf	10.00
Aug. 4, 1948	Purchase 500 3-cent postage stamps	15.00
Aug. 12, 1948	Warner's Delivery Service	1.85
Do.	Eck's Duplicating Service, checking and addressing envelopes	5.50
Do.	Eck's Duplicating Service, 400 "Dilworth Brinton letter"	3.55
Aug. 13, 1948	Beatrice Collins, salary Aug. 1-15	87.50
Do.	Dave Wynne:	
Aug. 14, 1948	Clerical and office expense	87.50
Do.	Telephone tolls	18.02
Do.	Expense for plane trip to Safford	54.56
Aug. 17, 1948	M. C. Mathews, 2,000 envelopes	17.93
Do.	L. A. Myers, professional services, Aug. 1-15, 1948	150.00
Aug. 24, 1948	Purchase 500 3-cent stamps	15.00
Do.	Subscription to Arizona News	2.00
Do.	Express charges on circulars, etc.	2.95
Aug. 31, 1948	Beatrice Collins, salary	87.50
Do.	L. A. Myers, professional services	150.00
Sept. 2, 1948	Adams Hotel, August office rent	100.00
Sept. 7, 1948	Office supplies, envelope moistener	1.26
Do.	Bower Co., 1,000 No. 10 envelopes	6.32
Sept. 9, 1948	Purchase 500 3-cent stamps	15.00
Sept. 10, 1948	Bil Pursley	200.00
Do.	Dave Wynne	125.00
Do.	George M. Hill	125.00
Sept. 13, 1948	Arizona News, publicity	200.00
Do.	PBSW Supply & Equipment Co., typewriter, etc., rental	18.00
Do.	Dave Wynne, telephone tolls	12.12
Sept. 15, 1948	Beatrice Sue Collier, salary	87.50
Do.	L. A. Myers, professional services	150.00
Sept. 20, 1948	Postmaster, box rental	3.00
Sept. 23, 1948	Republic and Gazette, publicity	212.25
Do.	Bisbee Daily Review, publicity	54.60
Do.	Douglas Daily Dispatch, publicity	35.49
Do.	Arizona Daily Sun-Flag, publicity	29.25
Do.	Nogales Daily Herald, publicity	29.25
Do.	Arizona Times, publicity	78.00
Do.	Prescott Evening Courier, publicity	29.25
Do.	Tempe Daily News, publicity	21.84
Do.	Tucson Star-Citizen, publicity	128.02
Do.	Yuma Sun and Sentinel, publicity	29.25
Do.	KTAR, publicity	216.00
Sept. 25, 1948	George M. Hill, expense	100.00
Sept. 27, 1948	Republic and Gazette, ad re radio broadcast	20.00
Do.	Postmaster, 500 3-cent stamps	15.00

## DISBURSEMENTS—Continued

Date	Received from—	Amount
Sept. 28, 1948	Mesa Journal-Tribune, publicity	\$27.30
Do	Arizona News	78.00
Do	Arizona Recording Productions, transcriptions	50.00
Do	Postage on advertising mats	1.71
Sept. 30, 1948	L. A. Myers, professional services	150.00
Do	Beatrice Sue Collier, salary	87.50
Do	KTAR, 8 programs and 25 spots	2,140.50
Do	Hotel Adams, rent to Sept 19, 1948	218.28
Oct. 1, 1948	Tucson newspapers	(128.02)
Oct. 2, 1948	Republic and Gazette, ad re radio	20.00
Oct. 6, 1948	Arizona Farmer, 8 inches, at \$3.08, Oct. 16	24.64
Do	Republic and Gazette, 15 inches, at \$5, Oct. 7, 8, 9, 11, 13, 14	75.00
Do	Arizona Times, 5 inches, at \$2, Oct. 12	10.00
Do	Republic & Gazette Engraving Co., reverse cut	5.20
Do	M. C. Mathews Printing, 3,000 letterheads, 3,000 envelopes, 10,000 cards	\$7.52
Oct. 7, 1948	Collector of Internal Revenue:	
	Withholding tax	2.00
	Old-age benefit	7.00
Oct. 8, 1948	Ajo Copper News	3.00
Do	Brewery Gulch Gazette	4.00
Do	Buckeye Valley News	2.50
Do	Casa Grande Dispatch	3.75
Do	Chandler Arizonan	2.50
Do	Coolidge Examiner	3.75
Do	Copper Era, Clifton	3.00
Do	Cocconino Sun, Flagstaff	3.75
Do	Glendale Herald	2.75
Do	Glendale News	3.75
Do	Arizona Record	3.50
Do	Holbrook Tribune-News	4.20
Do	Mohave City Miner	3.50
Do	Mesa Journal Tribune	3.50
Do	Arizona Silver Belt	3.50
Do	Nogales International	3.75
Do	Arizona News	10.00
Do	Graham City Guardian	3.00
Do	Apache City Independent News	3.25
Do	The Somerton Star	4.50
Do	Williams News	3.75
Do	The Winslow Mail	4.20
Do	Bisbee Daily Review	14.00
Do	Douglas Daily Dispatch	9.10
Do	Arizona Daily Sun, Flagstaff	7.50
Do	Nogales Daily Herald	7.50
Do	Prescott Evening Courier	7.50
Do	Tempe Daily News	5.40
Do	Daily Yuma Sun	7.50
Do	Republic and Gazette	9.50
Oct. 9, 1948	Dan Crumley	150.00
Do	Leroy Struble	75.00
Oct. 11, 1948	KOOL, spots, 5 per day to Nov. 1, 1948	150.00
Do	Carlos Montano, Koel	72.00
Oct. 13, 1948	Republic and Gazette	208.03
Do	KOOL, 11 programs	283.00
Do	Postmaster, stamps	90.00
Do	M. C. Mathews, printing cards	40.65
Do	KOY, 12 broadcasts	180.00
Do	Republic and Gazette	175.00
Oct. 14, 1948	Arizona Republic, 15 mats	12.20
Oct. 15, 1948	Republic and Gazette, 6-inch ad	30.00
Oct. 16, 1948	Dan Crumley, services	80.00
Do	Bisbee Daily Review, 40 inches, at \$1.40	56.00
Do	Douglas Daily Dispatch, 40 inches, at 91 cents	36.40
Do	Arizona Daily Sun, 40 inches, at 75 cents	30.00
Do	Nogales Daily Herald, 40 inches, at 75 cents	30.00
Do	Prescott Evening Courier, 40 inches, at 75 cents	30.00
Do	Tempe Daily News, 40 inches, at 56 cents	22.40
Do	Daily Yuma Sun, 40 inches, at 75 cents	30.00
Do	Ajo Copper News, 5 inches	3.00
Do	Brewery Gulch Gazette, 5 inches	4.00
Do	Buckeye Valley News, 5 inches	2.50
Do	Casa Grande Dispatch, 5 inches	3.75
Do	Chandler Arizonan, 5 inches	2.50
Do	Coolidge Examiner, 5 inches	3.75
Do	Copper Era, 5 inches	3.00
Do	Cocconino Sun, 5 inches	3.75
Do	Glendale Herald, 5 inches	3.75
Do	Glendale News, 5 inches	3.75
Do	Arizona Record, 5 inches	3.50
Do	Holbrook Tribune News, 5 inches	4.20
Do	Mohave County Miner, 5 inches	3.50
Do	Mesa Journal Tribune, 5 inches	3.50



## DISBURSEMENTS—Continued

Date	Received from—	Amount
Oct. 16, 1948	Arizona Silver Belt, 5 inches	\$3.50
Do	Nogales International, 5 inches	3.75
Do	Graham County Guardian, 5 inches	3.00
Do	Apache City Independent News, 5 inches	3.25
Do	The Somerton Star, 5 inches	4.50
Do	Williams News, 5 inches	3.75
Do	The Winslow Mail, 5 inches	4.20
Do	Arizona News, 40 inches	80.00
Oct. 19, 1948	Postage stamps, Pursley, mats	3.57
Do	W. H. Koopman, services	150.00
Do	Republic and Gazette, 40 inches	200.00
Do	Bill Pursley, services	50.00
Do	Stamps	10.00
Do	Arizona Sun, ad	10.00
Oct. 20, 1948	Phoenix, Ariz., Engraving & Lithographing Co., 100,000 envelopes, 150,000 folders	2,515.91
Oct. 29, 1948	Phoenix Blueprint Co.	3.03
Oct. 20, 1948	Bill Pursley, services	100.00
Do	Arizona Republic, mats	9.80
Do	Sunnyslope Journal, ad	10.00
Do	Stamps	30.00
Oct. 21, 1948	Bisbee Daily Review, 40 inches	56.00
Do	Douglas Daily Dispatch, 40 inches	36.40
Do	Arizona Daily Sun, 40 inches	30.00
Do	Nogales Daily Herald, 40 inches	30.00
Do	Prescott Evening Courier, 40 inches	30.00
Do	Tempe Daily News, 40 inches	22.40
Do	Daily Yuma Sun, 40 inches	30.00
Do	Arizona Times, 40 inches	80.00
Do	Mesa Tribune Journal, 40 inches	28.00
Do	Leroy Struble	100.00
Do	Charles Patterson	100.00
Do	M. C. Mathews	99.11
Do	Carlos Montano, radio	108.00
Oct. 22, 1948	Grover Udall	25.00
Do	Postmaster, Bisbee	37.00
Do	Dave Wynne, expense, Tucson-Nogales	145.00
Do	Dan Crumley, expense, Tucson-Nogales	100.00
Do	Republic and Gazette, 72 inches	360.00
Do	Mrs. Hawkins, list voters, Pinal County	75.00
Do	Rod Clelland	25.00
Do	Weekly newspapers, advertising	215.44
Oct. 23, 1948	Arizona Times, advertising	56.00
Do	Republic and Gazette, mats	14.14
Oct. 25, 1948	Postmaster, permit No. 188	1,000.00
Do	O'Neil Letter Shop, re literature	334.06
Do	Rod Clelland, re literature	28.40
Do	Arizona Recording productions, radio	200.00
Do	Tucson Daily Citizen	14.50
Do	PBSW Supply & Equipment Co., equipment rental	9.00
Do	James Robbins, re literature	200.00
Do	Mesa Journal-Tribune	192.00
Oct. 26, 1948	Republic and Gazette	200.00
Do	Creative Design Co., 2,000 posters	120.00
Do	KRUX, radio	925.00
Do	Simis Printing Co., advertising	7.50
Do	Bill Pursley, supplies	3.82
Do	Arizona dailies	314.80
Do	Miller-Johns, re Republic and Gazette and Arizona Times	568.00
Do	Connie D. Vernon, services	50.00
Do	Lelia G. Long, services	50.00
Do	Ed Hill, professional services	145.00
Do	Sun Valley Sun	28.00
Do	Stamps, mailing mats	4.43
Do	Sofia Monreal, services	25.00
Do	Election day publicity	200.00
Oct. 27, 1948	Sunnyslope Journal	36.00
Do	Republic and Gazette, 15 mats	12.20
Do	Gilbert Enterprise	16.00
Do	Valley of Sun Clipping	3.00
Do	Phoenix, Arizona Engraving & Lithographing Co.	608.96
Do	Dan Crumley	75.00
Do	Election day expense	200.00
Do	Bill Pursley, services	100.00
Do	Telephone tolls	13.60
Oct. 28, 1948	Hill & Hill (L. A. Myers), Oct. 31	150.00
Do	Beatrice Sue Collier, Oct. 31	86.13
Do	Postmaster, additional on permit	200.00
Do	Dave Wynne, reimburse for expenses	100.24
Do	Arizona Times	168.00
Do	Carlos Montano	72.00
Do	Dave Wynne (Nogales Herald and trip)	130.00
Do	Yuma Daily Sun	60.00

## DISBURSEMENTS—Continued

Date	Received from—	Amount
Oct. 29, 1948	Bil Pursley	\$50.00
Do	Republic and Gazette	25.00
Do	Rod Clelland	1.39
Do	Mrs. Goldie Whalley, Globe	150.00
Oct. 30, 1948	Cash, election-day expense	1,000.00
Do	Pacific Greyhound Lines, literature to Globe	8.00
Do	Hill & Hill, at cost, 3,428 1½-cent stamps	51.42
Do	Postmaster, stamps	7.80
Do	Long's Office Service	58.23
Do	Arizona Service Bureau	946.38
Do	Leroy Struble	150.00
Do	Charles Patterson	20.00
Do	Dave Wynne, re Nogales Herald ad	55.00
Nov. 1, 1948	M. C. Mathews, handbills, etc	104.69
Do	Dan Crumley	125.00
Do	Dave Wynne	62.50
Do	Dan Crumley (reimburse George M. Hill for advertising, Sept. 20)	50.00
Nov. 2, 1948	Whalley Lumber Co. (sign stakes)	9.90
Nov. 3, 1948	Dwight Baker, delivering circulars	20.00
Do	KRUX, 20 5-inch programs	150.00
Nov. 4, 1948	Rod Clelland, office supplies	10.00
Do	Arizona Recording, radio	34.30
Nov. 5, 1948	Postmaster, stamps	6.00
Do	George M. Hill, services	125.00
Do	Dave Wynne, services	625.00
Nov. 15, 1948	Beatrice Sue Collier	86.13
Do	Hill & Hill (L. A. Myers), Nov. 15, 1948	150.00
Do	Scottsdale Progress, advertising	22.63
Do	Valley of Sun Clipping Bureau	3.98
Nov. 20, 1948	Beatrice Sue Collier to Nov. 30, 1948	86.12
Nov. 29, 1948	Hill & Hill (services, \$150; telephone, \$27.39)	177.39
Nov. 3, 1948	Refund by postmaster	(250.66)
Nov. 5, 1948	Stamps, cash	2.00
Oct. 13, 1948	Arizona Times	150.00
Oct. 14, 1948	Hill & Hill (L. A. Myers), Oct. 15, 1948	150.00
Do	Beatrice Sue Collier, Oct. 15, 1948	86.12
Nov. 30, 1948	Social security tax	3.50
	Total disbursements	24,511.66

## RECAPITULATION

Total contributions received	\$24,517.80
Disbursements:	
Office expense	\$251.45
Travel expense	516.56
Publicity:	
Newspapers	5,094.76
Radio	4,883.80
Circulars, etc	7,027.31
Professional services	4,080.00
Office salaries	700.00
Office rent	318.28
Social security taxes	7.00
Election day checkers, etc	1,632.50
Total disbursements	24,511.66
Balance	6.14

Samples of the extravagant claims against Arizona's right-to-work amendment made by unions in 1946.

Their 1946 strategy:

1. Radio network broadcasts.
  2. Newspaper ads such as these.
  3. Editorials and cartoons in labor papers.
  4. Literally thousands of billboards and posters across the entire State.
- Their posters and signboards are still visible in many communities after 2½ years.

## WHAT IS THIS MISLEADINGLY NAMED ISSUE THE "RIGHT TO WORK"?

It is a blow against peace, progress, and plenty.

It would make it unlawful for any employer to deal with an organization representing all his employees.

It would make it unlawful for any organization of workers to enter into a contract with any employer as long as one worker objected.

It would tie the hands of industry, and cripple the pocketbooks of all workers. It would be in conflict with Federal laws regarding workers.

It would set up district attorneys in all counties as czars of workers and industry.

It would end labor's fight to guarantee jobs for returning servicemen in their organizations.

It would encourage a giant wave of strikes, picket lines, work stoppages.

It would end workers' seniority.

It would violate the constitutional right to free speech.

It would strike a death blow at the long struggle of workers for better wages, better working conditions.

It would cause chaos in Arizona.

#### PHONY ALL THE WAY THROUGH—THAT'S THE SO-CALLED RIGHT-TO-WORK BILL!

The Small Mine Owners Association, the Cattle Feeders Association, the Farm Bureau Federation, the Restaurant Owners Association, and some other big interests say they like labor—that they are for collective bargaining. Don't you believe it!

They want peonage labor—no matter what it costs anybody else! So they pick a phony title for a phony amendment and try to cajole the veterans into helping them get it passed.

Don't let them mislead you—They never did anything for anybody except themselves! Vote 107 no. Don't let them strangle Arizona.

This is published by the Citizens Committee Against the Right to Starve, 302 West Washington Street, Phoenix, Ariz. D. A. Baldwin, general chairman; Darrell R. Parker, campaign director; R. Andrew Worden, secretary. Directors and members; Dr. Trevor G. Browne, Phoenix; John L. Sullivan, Phoenix; A. N. Brimhall, Safford; Walter Maxwell, Phoenix; Fr. Emmett McLoughlin, Phoenix.

#### DO YOU KNOW A "LABOR DICTATOR" IN ARIZONA?

If you do, point him out to us. We'd like to see the color of his hair!

Don't let the Big Interest exploiters of labor deceive you into voting for any phony bill! Don't let propaganda designed to cut wages and destroy living standards influence you at the polls!

The sponsors of the so-called right-to-work bill are not spending all that money to help you. They are seeking only to serve themselves!

Don't let them strangle Arizona! Vote 107 no.

This is published by the Citizens Committee Against the Right to Starve, 302 West Washington Street, Phoenix, Ariz. D. A. Baldwin, general chairman; Darrell R. Parker, campaign director; R. Andrew Worden, secretary. Directors and members, Newell Stewart, Phoenix; John L. Sullivan, Phoenix; A. N. Brimhall, Safford; Walter Maxwell, Phoenix; Fr. Emmett McLoughlin, Phoenix.

#### RIGHT TO STARVE MUST BE DEFEATED!

IT MUST NOT BE PERMITTED TO BECOME THE LAW OF THIS STATE BECAUSE IT DOES THE FOLLOWING:

1. Eliminates collective bargaining and annuls the benefits thereof.
2. Guarantees only the return of un-American low wages and substandard working conditions, with attending destruction of American standards of living, by crushing the labor movement in Arizona.
3. Enslaves industrial workers of Arizona by outlawing freedom of association and union.
4. Demolishes stabilized employer-employee relations which have brought Arizona prosperity.
5. Disrupts harmony essential to reconversion by destroying labor management cooperation and substitutes chaos, confusion and industrial disruption.
6. Wipes out industrial democracy and fosters industrial dictatorship.
7. Conflicts with all State and national public policy and deprives union members of equal protection of laws.
8. Endangers sanctity of contracts and undermines the functions of free institutions.

9. Limits employers' right of hiring.

10. Robs servicemen and women of prewar rights and does not guarantee them employment except as industrial slaves.

11. Prevents freedom of speech by prohibiting free expression on benefits of workers' organization.

12. The right to starve bill is a declaration of industrial warfare!

Vote 107 no.

#### THE BROTHERHOOD OF RAILROAD TRAINMEN

In national convention at Miami Beach, Fla., on Saturday, October 26, 1946, adopted a resolution opposing the proposed "Right to Work" amendment to be voted upon by the voters of Arizona at the general election November 5.

The Brotherhood of Railroad Trainmen, as one of the organized crafts engaged in interstate commerce, is protected by the National Railway Labor Act in its dealings with its employers.

Other workers not so fortunate are entitled to unite into organizations which will provide them with proper representation in all matters regarding their general welfare.

The Brotherhood of Railroad Trainmen has therefore taken a clear stand against the proposed "Right to Work" amendment and has urged not only its own membership but all workers of Arizona to defeat this attempt to deny workers the legal right to combine their efforts in unity to safeguard their just interests.

VOTE 107 NO X

This advertisement sponsored and paid for by Clay B. Simer, Winslow, Ariz., State Legislative Representative for the State of Arizona of the Brotherhood of Railroad Trainmen.

#### DON'T BE FOOLED!

The Farm Bureau Federation, Cattle Feeders Association, Small Mine Owners Association, Motor Transport Association, and other large employers, and exploiters of labor want to cut wages.

Don't Let Them Strangle Arizona.

On November 5—Vote 107. No. X

This is published by the Citizens Committee Against the Right to Starve, 302 West Washington Street, Phoenix, Ariz. D. A. Baldwin, general chairman; Darrell R. Parker, campaign director; R. Andrew Worden, secretary. Directors and members: Dr. Trevor G. Browne, Phoenix; John L. Sullivan, Phoenix; A. N. Brimhall, Safford; Walter Maxwell, Phoenix; Fr. Emmet McLoughlin, Phoenix.

#### FACTS ON "RIGHT TO WORK" BILL

The "Right to Work" bill has been presented to the public as a veteran-sponsored amendment, yet not a single legitimate veteran organization has supported the measure.

This unholy act does not guarantee anyone the "right to work." Ever since this Nation was founded, every worker has had the right to work. It is guaranteed him by the Federal Constitution and the Constitution of this State. He may choose to work either as an individual or he may prefer to pool his individual strength with his fellow workers in negotiating with his employer for decent wages, reasonable hours, and favorable working conditions.

The sponsors of the measure have made it applicable only to labor organizations. It seems strange that they are interested only in the welfare of the working people. Why did they not include medical associations, lawyers guilds or commercial organizations which collectively bargain for the members of their professions, trades, or industries?

It appears that collective bargaining is all right for business and professional groups but is all wrong for the working people, somehow, this smells of "class" legislation.

## ADOPTION MEANS "PEONAGE"

Under the provisions of this amendment, the employer may replace employees with new men at any wage he may choose, without regard for years of service or seniority. He may deprive them of such hard-won union benefits as vacations, 8-hour shift, overtime pay, etc. Apparently, there are those who wish to see the return of times when companies could herd whole families into mines, force them in hovels, and drive them away when they became ill, injured, or old.

## SPONSORS ARE NOT FRIENDS

The groups that are back of this legislation are not, and never have been, interested in the welfare of the workers, veterans or otherwise.

Big business and mining corporations cannot say that they are interested in helping the veterans or the workers generally. No one can show where the sponsors of this measure have fought for more jobs, adequate housing, educational or hospital facilities for the veteran. Apparently they are interested only in championing the workers' return to low wages and poor living and working conditions or, "The Right to Starve."

Do you want this bill to become law?

Vote 107 No. X on November 5.

MORENCI MINERS UNION,  
DAVID VELASQUEZ, *President*.

## DO YOU WANT TO GO BACKWARD?

If the grotesque "right to work" amendment is adopted, Arizona's progress and development will be set back 50 years. Wage scales will collapse. The earner will be impoverished. There will be no money above subsistence in the pockets of the masses with which to buy the farmer's products and the merchant's goods. This State will be an economic island in America's prosperity.

Don't Let Exploiters of Labor Strangle Arizona!

Vote 107. NO. X.

This is published by the Citizens Committee Against the Right to Starve, 302 West Washington Street, Phoenix, Ariz. D. A. Baldwin, general chairman; Darrell R. Parker, campaign director; R. Andrew Worden, secretary. Directors and members, Newell Stewart, Phoenix; John L. Sullivan, Phoenix; A. N. Brimhall, Safford; Walter Maxwell, Phoenix; Fr. Emmet McLoughlin, Phoenix.

At its annual convention the State federation of labor chose to finance its campaign by assessing all members \$2 each. [From Arizona Labor Journal of May 20, 1948.]

On the recommendation of the laws and legislative committee regarding candidates for the legislature, each vice president was made responsible for this phase of political activity in his own district, with all officers pledged to cooperate fully in a State-wide movement to place persons favorable to Arizona workmen in legislative posts.

The second phase of political activity, defeat of Senate bill 65, was to be given full consideration after the primary elections, and the matter of financing this drive received next consideration of the board. It was voted unanimously that all unions affiliated with the State federation of labor and all A. F. of L. unions in Arizona be requested by the federation to contribute \$2 per capita, "to be used in opposing Senate bill 65 and other measures considered detrimental to labor within the State."—A. L. J.

Excerpts from Arizona Labor Journal between January 1947 and November 1948.

Continual use of weekly cartoons and editorials over a period of 21 months were a part of the union campaign to defeat Senate bill 65.

[From Arizona Labor Journal, February 12, 1948]

## LABOR'S DUTY TO THE STATE

The Arizona Times, in an editorial headed "Labor and progress" in last Thursday's issue, predicted what organized labor would be doing for the next several months and suggested some things labor might do to make its position stronger. All in all, the editorial was fair, and we have no particular kick about it, but there are many things labor has done in the State of which the editor undoubtedly is unaware.

Organized labor had a large part in the constitutional convention of the State and many liberal sections of the State constitution were brought about by labor. True, many of those sections were inserted with the enforcement clauses to be worked out by the legislature, and to date nothing has been done about it. But labor has worked unceasingly to get all the benefits of a liberal constitution. It has been an uphill fight all the way and labor has fought, step by step.

It was through labor's efforts that the State compensation law was adopted. Years later labor helped bring about an occupational disease law. It was labor that fought through a prevailing wage law and a minimum wage law, semi-monthly pay-day law and a wage payment law. It was labor that insisted on a minimum wage law in the laundry and retail trades. All of these laws benefited all people, not just union members.

It was labor that insisted on old-age pensions, and a broad social-security program. We have had a constant fight to keep all these laws and in every legislative session we have had to battle reaction and greed.

Maybe the Times editor is not alone in not knowing these things. Maybe the general public doesn't know them either. Maybe the Times can help us change that ignorance of the general public as to what labor is doing and trying to do.

Maybe labor is shy in trying to get publicity on its activities; maybe it is disgusted—and maybe it has at long last got the "don't give-a-damn" attitude as to whether people know it or not. It has never received any credit and very little publicity—except when it made a mistake, or a strike was called, or 'most anything that the daily press could criticize.

It hasn't been too many months ago when labor was told by the owner of an Arizona daily paper that if labor wanted anything in his papers, he had advertising space for sale—"lay the money on the line and we will print anything you want." That may sound crazy, but it can be verified.

Labor has no "in" with the daily press—at least up to now—nor with radio stations. All labor news in the State for many years has been bad—all bad. That was not without reason. That reason is clear—we now have a "right to work" law in the constitution. True, that law is aimed at union labor, but it will eventually peon all labor, both union and nonunion, for it will completely eliminate every labor union in the State, despite the fact the State supreme court says we still have the right to bargain collectively and the right to strike. We only have the right to work.

The boss will have all other rights—the right to hire (nonunion only), the right to pay what he will, the right to set the hours and the right to make the conditions. The supreme court says all this will contribute to the "public health, welfare, and safety of the people." If the court really believes that, we can understand many things—including the statement by a well-known legal man that "the law is what the court says it is."

Union labor has been the target of local so-called big business for years. Local merchants, lawyers, doctors, and others have been heard to say that we must "get rid of the d— unions." Enormous sums of money have, and will be spent to accomplish that end. They have even organized a special agency to do that—the Council of Associations.

It was the Times, we believe—in fact, we know—that "broke" the story about this organization—one story. It had just organized then. It has continued to organize and is now about perfect, we suppose. The group is now seldom mentioned—never in an unfavorable light—nor does anyone outside the association know just what its purpose is or what it is trying to do. Yet it has written letters to business leaders soliciting funds to get rid of the unions. The outfit is very much alive, with an executive secretary—his name is Rod Clelland, and his office is with other antilabor interests in the Heard Building—on the seventh floor.

Yes, the Arizona State Federation has, is, and will continue to espouse progressive, beneficial causes. We have contacted every member of the present legisla-

ture urging an appropriation for the State hospital. We believe Dr. Clark is an earnest, sincere man and is trying to do a job for the helpless sick people—and the Lord knows he needs lots of help. We will be out there trying to get a living wage for some of the State employees, who are not union members, but who need more money badly.

Most of the "mine-run" union members know what we are doing, for thousands of them receive and read their own weekly newspaper, but we cannot get the message over to the general public, for we control no outlet of publicity to do that.

We must fight the "right to work" law with everything we have. It must be our No. 1 task, and we sincerely hope the Times is not trying to get us to spread ourselves too thin, for if we lose that fight our chances of doing any good will be gone.

Right now we seem to be in the dog house. Some "big shots" greet us with a knowing grin, and the legislature holds us in contempt. We are going to do our best to wipe off that grin and leave some of the bought-and-paid-for legislators at home. If we fail and get the right to work, every unionist in this State will exercise his other right—the right not to work. A big story is in the making in Arizona before 1949 rolls around.

We believe the Times is "on the level," and we liked Mrs. Boettiger's forthright page 1 editorial Thursday, and we hope it will live long and prosper, and hope you will bear with us in this hour of need.

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[From Arizona Labor Journal, Phoenix, October 21, 1948]

#### IF SENATE BILL 65 PASSES HERE'S WHAT HAPPENS TO YOU

(The following digest, prepared by Ira Schneier, Tucson attorney, shows not only the immediate injury to members of organized labor in the State, but also the possible and probable far-reaching effects of Senate bill 65.)

Senate bill No. 65 was enacted by the regular session of the eighteenth legislature. A referendum against it will be submitted to the voters at the regular election in 1948.

**SECTION 1. Definition of labor organization.**—The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment.

**Comment:** The definition clearly defines labor organization so as to make any organization of employees subject to the bill, even though not called a labor union. Thus one employee dealing with an employer is not subject to the terms of the bill, but two or more employees become a labor organization, subject to the terms of the bill. The object: To force individual bargaining with employers.

**SEC. 2. Agreements prohibiting employment because of nonmembership in labor organization prohibited.**—No persons shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State, or any subdivision thereof or any corporation, individual, or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization.

**Comment:** This incorporates the constitutional amendment (106) word for word, into the bill. The amendment furnished the legislature with the opportunity to write enabling legislation—this bill. As seen further herein the bill is tied up with the amendment.

**SEC. 3. Certain contracts declared illegal and void.**—Any act or any provision in any agreement which is in violation of this act shall be illegal and void. Any strike or picketing to force or induce any employer to make an agreement in writing or orally in violation of this act shall be for an illegal purpose.

**Comment:** This purports to give "teeth" to the above amendment, generally, one of labor's rights, that of seeking an order restraining an employer from violating the provisions of a contract providing for closed or union shop is gone—under section 2. Such contract is illegal and the courts will not enforce an illegal contract. It should be noted that the first part of section 3 makes any person violating any part of the bill liable as provided further in the bill, to civil damages from an injured party. This includes employers. Of more importance

is the latter provisions in the section pertaining to strikes and picketing. This is an attempt to abolish picketing and striking to enforce labor's demands—the only weapon labor would have left, if this bill is strictly enforced. Under this section what employer in any labor dispute would not testify that the object of the dispute is to force union employees upon him? Thus any set of facts where a picket or strike is concerned, can be twisted by the employer to come within this section. In view of the United States Supreme Court decisions, followed by our court in the *Busy Bee* case, it is doubtful that the right of picketing, being the right of free speech, can be abridged.

**SEC. 4. *Compelling person to join labor organization or to strike against his will or to leave his employment prohibited.*** It shall be unlawful for any employee, labor organization, or officer, agent, or member thereof to compel or attempt to compel any person to join any labor organization or to strike against his will or to leave his employment by any threatened or actual interference with his person, immediate family, or property.

*Comment:* This section has far-reaching effects. If a union man walks off the job, refusing to work alongside a nonunion man, and the nonunion man is fired he has an action against the individual union man. If the action is done by the organization, or officers, the action may be taken against them. (See sec. 6.) But what is meant by "strike against his will?" The term "strike" being ordinarily connected with an organized work-stoppage, and an organized work stoppage being usually sponsored by a labor union, we can assume that this section is aimed at destroying the inherent power of a union as a union of members resolving to take a definite course of action by a majority vote of the members.

Assume that the members by such action have voted to strike a certain employer. One member does not wish to abide by the rule of the majority. Under this section all the members of the union and its officers can't force the minority member to strike because any effort made to so do might be termed an "interference with his person or property." What is meant by the term "interference"? Suppose the business agent stopped the member who was on his way to work behind the picket line of his brothers, and tried to talk to him? Would that be interference with his person? Suppose that one of the members was dropped from an organization for such conduct, and lost as a result thereof, certain pension benefits (such as I. B. E. W. which he had contributed from his wages). Would that be interference with property rights?

**SEC. 5. *Conspiracies to violate act prohibited.***—Any combination or conspiracy by two or more persons to cause the discharge of any person or to cause him to be denied employment because he is not a member of a labor organization, by inducing or attempting to induce any other person to refuse to work with such person, shall be illegal.

*Comment:* This is one of the most vicious parts of the bill and an attempt to negate the 13th amendment of the United States Constitution abolishing involuntary servitude—in this case forcing a union man to work alongside a nonunion man unless he makes this distinction: He must quit of his own individual choosing. He dare not discuss same with any other union man on the job or with his business agent, because if he walks off with another union man at the same time (in concert) or after discussing same with business agent, that might be termed a conspiracy under the act. (Even if he walks off of his own choosing, and a nonunion man is fired he is still subject to suit under other provisions of the act.) If the action is voted by the membership it is a conspiracy subjecting the union to suit under section 6 of the act. Thus once again we see the purpose of the authors of this bill: Destroy the inherent organization of a union of members and leave any action to the whims of individual members. A conspiracy or threatened conspiracy is also the subject of injunctive relief. (See sec. 7. This really stops everything.)

**SEC. 6. *Liability for damages.***—Any person who violates any provision of this act, or who enters into any agreement containing a provision declared illegal by this act, or who shall bring about the discharge or the denial of employment of any person because of nonmembership in a labor organization shall be liable to the person injured as the result of such act or provision and may be sued therefor, and in any such action any labor organization, subdivision or local thereof shall be held to be bound by the acts of its duly authorized agents acting within the scope of their authority, and may sue or be sued in its common name.

*Comment:* This wipes out all legal technicalities in suits against labor unions, some questions formerly had that a labor union, being a voluntary unincorporated association, could not be financially held in case of judgment against it. This section makes the union treasury liable for satisfaction of any judg-



ment obtained by an aggrieved party. It also makes the treasury liable for all acts done by its officers, agents, and action by the membership. It also makes the officers individually liable and should there not be enough in the treasury the aggrieved party can look to the private resources of such officers for satisfaction of his judgment, if such officer or officers violated the section.

SEC. 7. Injunctive relief. Any person injured or threatened with injury by any act declared illegal by this act shall, notwithstanding any other provision of law to the contrary, be entitled to injunctive relief therefrom.

Comment: Except for section 5 of the bill, this is the most vicious. It puts Arizona labor back 35 years, repealing section 26-109 of our code, passed in 1913, prohibiting injunctions in labor disputes. This means that in addition to other remedies under the act, when any purported injury is threatened, an aggrieved party can immediately petition the court for a temporary restraining order, and later, for a permanent injunction. This means that one man, the judge of any superior court, can stop a strike or walkout on a few moments notice and by the employer putting up a nominal bond. This puts us back to government by injunction. It not only means that a strike can be stopped before it is started, but it might mean that an attempt will be made to force union men to work alongside of nonunion men—all to the ultimate end of destroying a union as a union. Any violation of a restraining order or injunction will result in contempt proceedings and possible fines and jail sentences.

SEC. 8. Definition of person. The word "person" includes a corporation, association, company, firm, or labor organization, as well as a natural person.

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#### VICKERS UNITES LABOR VOTE VIA STATE-WIDE TOUR

Cooperating with the AFL national political-education program and acting in conjunction with the similar election-year strategy of the State federation executive board, Elmer F. Vickers, Sr., secretary-treasurer of the State organization, is traveling throughout Arizona, making political medicine with all the many locals affiliated with the federation.

Having covered the southeastern and western portions of the State in his initial trip Secretary Vickers during the past week and at present is completing the circuit to the north.

Geared to assuring labor's November victory over Senate bill 65, the plans of the executive board call for a united labor vote and the corresponding awareness by union members of the issues at stake.

Vickers reports that the Kingman locals are particularly equal to their responsibilities. While in that city Vickers spoke before organized-labor groups, appraising them of the vital necessity of their complete cooperation with the political program as advised by the State federation. Before leaving Vickers was assured of Kingman support and is pleased to announce that by July 26, the locals in that area will have organized a fighting political program and will be meeting and under way on that date.

The latter part of last week Secretary Vickers met with locals in Tucson, Bisbee, and Douglas which he had previously contacted. Labor groups in the three southeastern centers have already formed political-action councils and are well on the way to making their weight felt in political circles. A check-up showed that union members as individuals are exhibiting keen interest in their futures as is implicated in the right-to-work legislation. The secretary feels satisfied that an adequate groundwork has been established in these cities and that local union officials are keeping abreast of the federation's schedule.

At present Vickers is contacting the AFL membership in Miami, Globe, McNary, and Morenci. A strong political field, this area is well represented by labor votes. While no account of successful political organization is available at the writing, the Journal is certain that the labor electorate in Morenci, Globe, McNary, and Miami are equal to the challenge offered in Senate bill 65.

While the federation program is naturally aimed at AFL membership, Secretary Vickers has lost no opportunity to confer with companion groups in organized labor. Throughout his travels the AFL political emissary has met with and compared strategy with members and officers of the railroad brotherhoods, and CIO locals.

These organizations, separate entities from the AFL, are still fellow unionists and subject to the same portents contained in the right-to-work bill. Vickers

believes that faced with such a death blow, all labor organizations in the State will form united ranks to defeat this reactionary legislation.

Many public officials and persons running for public office have been approached by Vickers. The State federation is strongly interested in their opinion on labor and social legislation.

The federation, hewing to the national labor policy has refused to endorse any candidates for office. However it is "ipsy facto" that known opponents of labor and legislation favorable to the working class will get the opposite from endorsement for their political hopes.

Where dyed-in-the-wool labor haters are either incumbents or new candidates, the federation is encouraging the running of favorable opposition. Through the diverse expedients of political activities all Arizona labor is committed to the support of its friends.

Reactionary forces are already actively fighting labor and labor favored candidates with the aid of S. 65.

#### MIAMI STAGES OPPOSITION TO SENATE BILL 65

Over 200 people attended a meeting of the Gila County Labor's Political Education League Tuesday night at the Labor Temple in Miami. The group was composed of AFL, CIO and railroad brotherhood members and many nonunion members were present.

The meeting was opened by Red Gardner, of the Bartender's Union, who introduced Secretary Vickers of the State Federation of Labor. Vickers reported on his activities as director of the campaign to defeat Senate bill 65, and went into details on the committee plans. He spoke briefly on the bill itself and then introduced J. W. Strode, former president of the Miami Miners Union and recently secretary to Governor Osborn.

Other speakers were Steve Avolos, of the CIO and Earl Lee, representing the brotherhood of trainmen of Tucson, who made an excellent plea for the defeat of antilabor legislation.

Several candidates were present, were introduced, and made short talks.

Another meeting will be held in the near future.

#### GOVERNMENT BY LAW (?)

(By Joseph M. Casey, A. F. of L. organizer)

As American citizens we live under a democratic form of government. As Americans we live under government by law. As Americans we believe that our form of government is good. Since our good form of government is government by law, it necessarily follows that our laws are and must be good laws, for if our laws are not good laws, then our Government is not good government.

Our great founding fathers knew this, and hence, set up certain procedures to keep our Government good, just by keeping our laws good. These great men defined our form of government as being "of, for, and by the people" governed, not, mind you, "of, for and by 'some' of the people" governed, but "of, for, and by 'all' of the people" governed.

Any law that is counter to this fundamental is bad law. Any law that flouts this fundamental, makes for bad government.

We have a law in Arizona known by a false title. It was given a false title deliberately! It plays upon our weakness for popular slogans. It is miscalled: The right to work law. What it really is supposed to be is Arizona's Labor relations law. However, such a stuffy title could not be sold to the Arizona voters, so, things were doctored up a bit, and these good people were sold a package bearing a completely false label. In fact, during the heat of the campaign to secure signatures, even this false title was further falsified. Yes; this law was presented to many as the "veterans' right to work." Of course, everyone, particularly the veterans, have since learned to their utter disgust how shamefully they were taken in.

Another disgusting feature of the campaign to pass this bad law was the impression given out that it was actually a make-work law. Such a law is a good law, but the infamous right-to-work law, in no sense is devoted to the

creation of much needed jobs. Many believed this, and so believing, voted for this dastardly gold brick.

As amazing as it may seem a simple examination of the language of this law shows it up instantly as not being for all of the people. This law falsely purports to help "some of the people," while being deliberately directed against another "some of the people." In so many words, the law orders that no one shall be deprived of a job because of nonmembership in a labor union. One has only to ask himself, "How about job security for one holding membership in a labor union?" Doesn't this establish a so-called right for nonunion people as against union people? And if it does this as a law, is it a good law according to the fundamental rule established by our founding fathers? In other words is it a law "of, by, and for 'all' of the people"? The law by its very own language supposedly favors one class of labor as against another class of labor. This makes it class legislation, the most undemocratic kind of bad law imaginable. Why was not this law designed to protect the jobs of union men as well as nonunion men? Is its purpose to really help the nonunion member? Let us take a look.

When and if this law ever gets working, presumably a very large army of non-union individuals will be created. In fact the law will mean unemployment for all union men so all union men will become nonunion men just to enjoy the "right to work." If worked out to a finality, this means the destruction of all free labor unions in Arizona. The fact that labor unions have every right to exist, and the further fact that Arizona workers have every right to belong to unions, means absolutely nothing under this law. It openly pretends to protect one "right" and in so doing destroys other "rights," established and made sacred in our Constitution.

The right of workers to have unions, the right of workers to join unions, is just as sacred as the right of workers to have churches, the right of workers to join churches. To destroy the right of free association in one instance is to destroy the right of free association in the other.

Therefore, if a bad law prevails and is enforced in the State of Arizona, assuring jobs only to nonmembers of unions, such a law is directed at the destruction of but one thing—the unions themselves.

Now, let us complete this picture so as to expose what is in store for all of these nonunion workers, when unions are, to all intents and purposes, taboo.

Labor unions, and labor unions alone, have brought high wages, shorter hours, and good working conditions to American workers whether union or nonunion. The fight that unions in America have put up is the only single force consecrated to the sole economic betterment of working people as a class. Have you ever heard of bankers, realtors, cattlemen, mining interests, or the tycoons of big business, organizing a reform for the benefit of workers? On the contrary these very selfish interests have fought and are still fighting every type of beneficial legislation for the workingman and his family.

These big, powerful industrial monopolies have fought and are still fighting unions of their workers. These selfish, big business interests conceived and put over the atrocious misnamed "right to work" law. They want the workingman stripped right down to an individual status, a nonunion status, then the rest will be easy. Back will come the old 30- and 40-cent-per-hour rates for everyone; the 10-hour day and 7-day week will come next; and the conditions of work will become abominable.

The extremes of this picture are frightening, and well may they be. Arizona workers have the means in their power to put a stop to all of this. Democracy still lives in our free elections. It becomes the sacred, vital duty of every worker, and the family and friends of every worker, to register and vote down the industrial slavery in store for them if senate bill 65, which puts teeth in the dastardly misnamed "right to work" law is passed at next November's election.

Senate bill 65 will be on the ballot in November. Save the name of your State, and save the dignity of your labor, with an avalanche of "No" votes. Make democracy for all live.

#### GOVERNMENT BY INJUNCTION

Senate bill 65, which will appear on the ballot this fall, is designed to take organized labor out of the labor-management picture. It is intended to destroy unions, root and branch.

Senate bill 65, after listing those things upon which organized labor's strength is based and declaring them illegal, and after threatening severe punishment toward an employer who wants to contract with a union in order to stabilize his

business, then proceeds to repeal a former Arizona law—without saying so—in order to make the slaughter of unionism that much easier.

Section 7 of the measure incorporates that darling of the "hate labor" boys. It repeals section 26-09 of the Arizona Code, passed 25 years ago, which prohibits injunctions in labor disputes. Senate bill 65 goes still further and permits an employer to ask for, and a judge to grant, an injunction against a labor organization by posting a nominal bond and saying that he has been threatened by one or more union men. The language of the act is all embracing. It says:

"SEC. 7. Injunctive relief. Any person injured or threatened with injury by any act declared illegal by this act shall, notwithstanding any other provision of law to the contrary, be entitled to injunctive relief therefrom."

This paragraph, seemingly so innocent on the surface, means that one man—the judge of any superior court—has the power to stop all union activity—organizing, bargaining, enforcing contracts—by issuing an injunction against the union.

There need not be a strike in order for the union to be restrained. All that would be necessary is for an employer to be suspicious that maybe there is a chance that a strike will be called. Does he try to find out what the trouble is and settle? He runs to the judge and gets an injunction.

If some union man or other approaches a nonunion employee of his and suggests that it might be a good thing if he took out a card, what does that employer do? He scampers over to the judge and demands an injunction against the union and its officers on the grounds that he is "threatened" by an organizing campaign.

If Senate bill 65 becomes law—and there are thousands of antiunion lads in Arizona who are going to do their best to see to it that it does—this section permitting injunctions and another section which permits court judgments against unions and union officers can be used, and will be used, to destroy labor unions in Arizona.

If you think it can't happen here, stop a minute and think what could happen in the place where you are working.

Senate bill 65 must not pass.

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#### OUR INJUDICIAL JUDICIARY!

(By Joseph M. Casey, general representative of the American Federation of Labor, assigned to Arizona)

Under government by law, there are lawmakers and law administrators, and over and above these sit the judges of the law. This last, by far, is the most sacred, and therefore the most dignified, arm of our Government. It is presumed that when legislators make laws, or when the people through elections make laws, these laws are constitutional. But, as you have no doubt noticed, this is only a presumption. If it is a mere presumption, then the all-important question is, How do we pass from the field of presumption to the field of fact? Is this the function of our legislators? Is this the function of the people as voters in a regular election? Is the constitutionality of laws decided by a mere counting of heads—a majority, in other words? In a conflict as between one set of constitutional rights and another set of similar rights, is there not a specific branch of our Government whose sacred duty and obligation it is to make understandable, reasonable, legal, and fair decisions? Decisions based, if you please, on facts?

What would you think of the highest judicial body in our State if, instead of a legal decision based on facts and sound legal theory, it rendered a political decision? A decision based, even if only in part, on a majority vote of the people?

My good union brethren, prepare yourselves. Yes; hold on to your seats. For we have right here in our fair State such a decision.

Here is the proof, the very words of the Supreme Court of the State of Arizona: "The test we must apply is simply to discover whether the law [the infamous, misnamed right-to-work law] has a rational basis and could on any reasonable theory contribute to the public welfare. The considered and deliberate action of the people of Arizona has determined this in the affirmative; rule by the majority is the essence of democracy."

There you have it, the unanimous language of our supreme court. Majority rule, a mere counting of heads, is all that is needed. Whether in part or whole, this is an absurdity. Yes; if such reasoning holds any weight at all, then the absurd question, "Why have courts at all?" could be asked.

Our form of government, besides accepting and upholding the rule of the majority on pertinent issues, provides for a carefully worked out system of checks and balances. Our two-party system, our two-house legislatures, and, superimposed over and above our free elections, our legislatures and our executives as a check and balance, if you please, is our judiciary. Our founding fathers knew that democracies are not perfect and provided our Constitution and our courts to prevent the people from voting themselves into a slave state.

This is not extreme or absurd. Look back at elections of the people that had to be overruled by our courts. Election-campaign trickery is certainly not unknown to us. Coercion of voters by politically controlled bosses has happened here. But, thanks to that great and powerful arm of our democracy, our courts, election frauds are and have been the exception rather than the rule in America.

In the face of the foregoing, how are we to interpret the above-quoted language of the Supreme Court of Arizona? We know that the big, powerful monopolies and moneyed interests of Arizona backed the passage of the infamous "right-to-work" law. We know that dollars have swung elections. We know that dollars of the tycoons of big business played a tremendous part in the so-called right-to-work election. We feel that the Supreme Court of Arizona is aware of these possibilities also. Therefore, and with the deepest of respect for our general judiciary, we are forced to ask: Why did the Supreme Court of Arizona shirk its responsibility by passing the buck to the people of Arizona? Certainly this court must know that it cannot apply the rule of the majority in this case any more than it could apply the rule of the majority to the unanimous vote of the people of Arizona, should they so vote, to pay no more taxes. Certainly each member of this court knows better, and then, again, maybe the words of the poet Pope apply here:

"A little learning is a dangerous thing;  
Drink deep, or taste not the Pierian spring."

At any rate, the laboring people of Arizona have every right to be alarmed at the action of their highest court in investing the election of the people with any final sustaining judicial significance. This they feel is wrong right on its very face. This they feel can be termed "playing politics."

Arizona union labor is and must be "equal under the law." Rights given to nonmembers of unions definitely classifies Arizona workers into nonmembers of unions and members of unions. The language of the atrocious right-to-work law definitely takes sides, supposedly according a right to nonmembers of unions, while completely ignoring the same right for union members.

Fortunately the law is to all intents and purposes, inoperative until the November election. This will be a test, not a legal test mind you, but a political test—yes, a very popular test. The Supreme Court of Arizona through its wrongful emphasis and recognition of the value of such tests in the judicial field nevertheless points up the necessity of union labor massing its strength at next November's election if for no other reason than to show this court how injudicial it is a judicial body;

Check with your union. Join the campaign against wage slavery. Place yourself in a position to vote against and fight against Senate bill 65 which will put fangs in the so-called right-to-work law.

#### SENATE BILL BLACKMAIL BAIT

(From Aces)

Senate bill 65, passed by the legislature and handed to the voters as a referendum measure, will be on the ballot next fall.

The bill was passed with the intent of making it impossible, in Arizona, for an employer to operate anything else than an open shop—which is to say, a nonunion shop.

It is so written that it places penalties on both employers and union members who seek to bargain between themselves to their mutual advantage.

The union, or any combination of union members, may not contract with an employer to sell their labor to him exclusively, nor may an employer contract with the union members to hire only skilled workmen from union ranks.

Section 5 of the act, in particular, is aimed at employers who may want to employ the best men available at prices agreed upon, for a period agreed upon by the

employer and the association of workers. Here is section 5; aimed at both unions and employers:

"Section 5. Conspiracies to violate act prohibited. Any combination or conspiracy by two or more persons to cause the discharge of any person or to cause him to be denied employment because he is not a member of a labor organization, or by inducing or attempting to induce any other person to refuse to work with such a person, shall be illegal."

The provision contained in this one paragraph alone is enough to send shivers up the back of any employer who has to hire a worker from time to time. If he refuses to hire some "knot head," some obviously inferior worker, the guy can put up a howl that he wasn't hired because he wasn't a union man. If he's fired, for any reason, and there are a few union men in the shop, he can always claim he was canned because he did not get along with the card-carriers, and institute a damage suit against the boss. Nice, huh?

If he does manage to wiggle into a union shop—and he will if this law is passed—there's no way under the shining sun that the employer or the men he works with can get rid of him. He can sit on his "fat can" all day long and dare anybody to fire him—in fear of a suit under the provisions of Senate bill 65.

Unions can discipline their members, but neither the union nor the boss would be able to touch one of these jokers. Senate bill 65 says you can't.

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[From Arizona Labor Journal, Phoenix, October 28, 1948]

#### STATE CONSTITUTION BACK OF APPEAL AGAINST ANTIUNION LEGISLATIVE MOVE

The Constitution of the State of Arizona is paramount.

The open-shop chorus has been trying, by advertising, by radio programs, and by word of mouth, to sell the idea that the "big, bad, labor leaders" are trying to put something over on Arizona voters.

The Arizona Constitution, through the wisdom of the early settlers of the State makes provision for just such problems as Senate bill 65 presents.

The hate-labor boys, lacking legitimate arguments for their beloved Senate bill 65, have resorted to all sort of lies, misinformation, innuendo, and deception. The latest stunt is a charge that the labor bosses have put Senate bill 65—300 "Yes" and 301 "No"—on the ballot next Tuesday.

It was not the labor bosses, but thousands and thousands of Arizona citizens who placed the measure on the ballot. They acted under an article of the Constitution of the State of Arizona which reserves to the people of the State the right to pass judgment on acts of the legislature.

Under that provision of the Constitution, 5 percent of the voters of Arizona may order the submission to the people, at the polls, any measure—or any part of any measure—enacted by the legislature. To make sure that the citizens of the State have every opportunity to do this, the constitution further provides that laws passed by the legislature will not go into effect until 90 days after the legislature goes home.

The only exception to this is when an act has been passed by two-thirds of the members of both houses of the legislature and signed by the governor.

In the case of Senate bill 65, it was passed by the legislature by a majority, but without sufficient votes to make it immune from referral to the people.

Governor Osborn signed the bill and, at the same time, pointed out to opponents of the measure that it should be taken to the people at the next election.

In a matter of days sufficient signatures of qualified voters were secured to refer the law to the people and it appears on the ballot next Tuesday for their decision.

It is important that the voters next Tuesday realize that it is within their power to put an end, for a time at least, to this attempt to destroy labor organizations in the State.

It is also important for them to know that the powers that be behind the wage-cutting measure attack along with labor unions, such organizations as those of the school teachers and nurses. By including them under the blanket heading of "labor organizations," the backers of the proposal also aim their guns at education and the nursing profession.

It is important that every voter know that every step taken by liberal elements in the State in securing a general vote on this proposal was strictly according to Hoyle—that it was done according to provisions of the Constitution

of the State of Arizona and that the screaming of the bill's sponsors is caused by their failure to put across a fast one.

The framers of the Arizona Constitution were wise. They knew that sooner or later a legislature would put the people of the State out on a limb and they provided a means by which the people could undo what the legislature had done.

The voters of the State will decide, next Tuesday, if they want the kind of wage-cutting legislation the boys out at the statehouse have sawed off on them.

#### ARTICLE 5, SECTION 1, STATE CONSTITUTION

The legislative authority of the State shall be vested in a legislature, consisting of a Senate and a House of Representatives, but the people reserve the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls, independently of the legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any act, or item, section, or part of any act, of the legislature.

#### MARVIN SMITH, CANDIDATE FOR GOVERNOR, SAYS SENATE BILL 65 IS "STARVE LAW"

In announcing his candidacy for Governor last week, Marvin E. Smith, at present a State senator from Maricopa County, who should know what he is talking about, as he fought all of the antilabor laws adopted at the last session of the legislature, dubbed Senate bill 65 as the "Right-to-starve bill."

Senate bill 65 would eliminate not only closed-shop conditions, but would make it impossible for even a union shop. No employer, regardless of whether he wanted to bargain with his employees and work under union conditions, could do so under Senate bill 65. Every job in the State, union or nonunion, would be put up for bid, based on the lowest wage, and that worker would then have the "right" to take the job. He would have no other right. The law does not guarantee the veteran, or any other worker, anything. Only the "right" to work.

Senator Smith recalled that he and Senator Sam Head of Yavapai County, talked against bill No. 65 practically all of one day, and were roundly criticized by two local daily papers for so doing. Unfortunately, while Senator Head fought the bill from its inception, he was not present at the final vote and is not recorded as voting against it. However, he consistently voted against all such bills, along with Mr. Smith.

This bill has been referred to the people of Arizona, and organized labor intends to see this year that every person really knows just what the purpose of the law is—and who is supporting it, and why.

The "right-to-work" laws have been adopted in 22 States to date. They all make unlawful any type of union security, and the framers of the Taft-Hartley Act (that is so long as State laws are worse than the T-H Act) took cognizance of States' rights by providing that nothing in the Federal law shall authorize the execution of agreements that make union membership a condition of employment in any State or Territory where such agreements are prohibited by State or Territorial law.

This so-called right-to-work law captures the imagination of many people.

However, careful consideration of such a statement, or laws, will show it is nothing other than a myth. No one has the right to work in the sense that someone has a duty to give him a job. Workers can expect jobs only if employment is available, and he can sell his services to the person wishing to employ.

Senator Smith's record as to organized labor is perfectly clear. He does not try to "cover up" as so many politicians do—for us in one crowd and against us in another. What labor will do, regarding him, we are unable to say. How good a Governor he will make, we are also unable to say.

But we do want to say that Marvin E. Smith fought the good fight for us as senator in the last legislature—and he carried the battle in his campaign for senator, making more than 100 speeches against the "right-to-starve" bill. We want that for the record.

As a successful businessman, Senator Smith realizes, we believe, the deplorable condition the State would be in if such legislation were passed and enforced. He is not bashful in telling one and all that such antilabor laws will

do no one any good—except possibly the low-wage advocate—and it will eventually put him out of business.

Work against and vote against Senate bill 65.

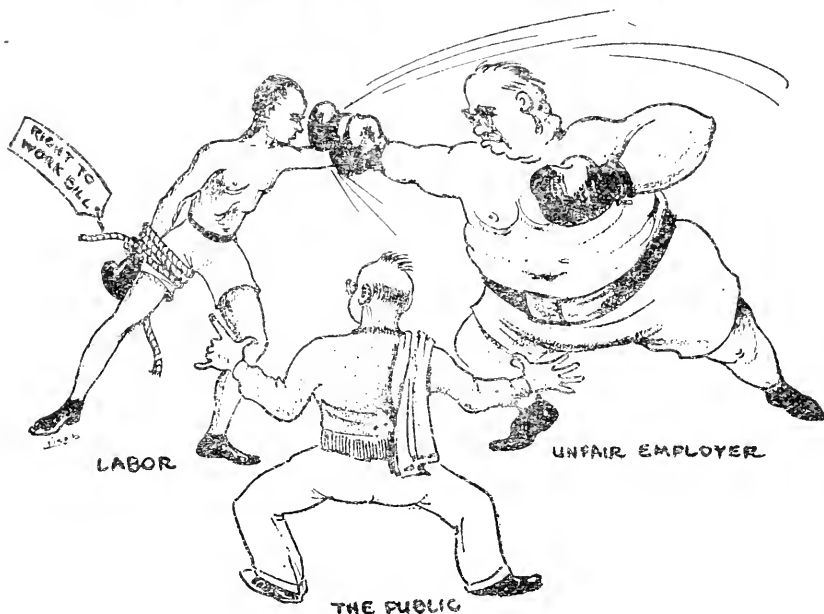
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MAY 22, 1947

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## SHALL WE TIE THE OTHER HAND?

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HAVE YOU REGISTERED TO VOTE?

This is no joke, son. You either join with all other unionists in the State and defeat Senate bill No. 65 and elect a few progressive, liberal thinking men to the Arizona Legislature or forget all about—

Union wages, collective bargaining, working conditions and prepare to work as individuals and outbid your fellow members for jobs—at whatever wage you can get.

Read the digest of the law and see just what it will do to you and yours. Talk to your friends outside the union and tell them of the bitterness, economical strife, and possible bloodshed this antisocial law will cause. Union men and women will never work with scabs. "We cannot exist half free and half slaves."

Register and then vote.

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### SENATE BILL 65 IS ANTIWORKER

(From Aces, official publication of the Arizona Catering Employees' Alliance)

Senate bill 65, which will be on the ballot next fall as a referendum, was passed by the legislature to put teeth in the "right-to-work-for-nothing" bill.

Workers of the State will be given a chance to express themselves on whether or not this union-busting law stays on the books.



The second section of the law is the one the whole union-hating campaign is built around. It outlaws not only the closed shop but the union shop as well and would place Arizona in the nonunion category. Here it is:

"SEC. 2. Agreements prohibiting employment because of nonmembership in labor organization prohibited. No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State, or any subdivision thereof, or any corporation, individual or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization."

It can plainly be seen by reading the foregoing what the antiunion lads were trying to do. They propose to toss all jobs up for grabs and the worker who bids lowest gets the job. It plainly states that no man, no corporation—not even the State—shall make any kind of contract, written or oral, which will keep a rat out of a union or keep him off a union job at union wages.

The framers of this joker of a law well know that such a thing as a union wage will be a thing of the past within 6 months after the law goes into effect—as it will go if the workers of the State don't get out and vote.

You will note that it provides that a worker cannot be refused employment because he hasn't a card. It also provides that he may not be discharged because he is not a member of a labor union. Even the union shop—which the Taft-Hartley law recognizes—is impossible under senate bill 65, because even if a majority of the workers signify their desire for union conditions, the employer is prohibited from dealing with them as union members. They must also dicker for the rats—who are always eager to sell another worker down the river for 30 copper pennies for themselves.

Don't allow anyone to tell you that senate bill 65 is intended as a protection for the worker. It is antiworker just as it is antiunion.

Since labor unions are the only protection the workers have—together with the laws protecting unions in their bargaining—unions must be destroyed if workers are to be exploited.

Senate bill 65 seeks to destroy unions and thus depress wages.

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#### RICHBERG WILL REPRESENT STATE IN LABOR APPEAL

Donald Richberg, former famous labor lawyer, who took millions of dollars from the railroad brotherhoods in their fight for better conditions throughout the country, has been retained by the Arizona attorney general to assist with the fight before the United States Supreme Court in the right-to-work law, which was appealed from a decision of the State court.

In addition, the State's attorney general and his first assistant will also be in Washington doing their best to sacrifice the workers of this State. So we are placed in a position as taxpayers to be paying money to have our rights as workers taken from us.

Mr. Richberg has gone a long way since the days when he was depending on small fees to keep the wolf from his door. He was only too glad to represent labor unions and charge them fat fees for his work. Now that he has become wealthy he finds it just as easy to join the other side and undo everything he tried to do in the days when he was unknown and posing as the friend of the down-trodden workman.

He has gone far afield, as have some others who will come forward with the claim that duty compelled them to do thus and so. Some day the workers will vote—and vote unitedly—it may be this year, and when that happens many changes will come about. What was it Lincoln said:

"You can fool all of the people some of the time, and some of the people all of the time, but you can't fool all of the people all of the time."

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#### VOTERS, DECEIVED BY LIES OF SENATE BILL BACKERS, TOSS WORKERS TO WOLVES

Arizona voters last Tuesday went to the polls and demonstrated the truth of the statement that if you tell a lie big enough and often enough it will be believed.

Senate bill 65 received enough "Yes" votes to demonstrate the fact that the tactics of the persons who put it across were the correct ones. The appeals to prejudice, to greed, and to misplaced sympathy put the proposition across.

The Nation as a whole went liberal—a liberal President and a liberal Congress was elected—and not a little of this was directly due to the voters dissatisfaction with the Taft-Hartley Act and similar legislation.

Arizona, as far as is known at this time, was the only State to go overboard for antilabor laws. One similar to senate bill 65 was trailing badly in New Mexico late Wednesday.

The voters of Arizona were sold a bill of goods and after they have a chance to see just how badly they were fooled by the lies, the deliberate distortions of fact and the phony issues that were used they will be in a mood to do something about it.

Nobody likes to be fooled—and Arizona voters were badly fooled.

When they discover that they have been taken for a ride—that they have been used—the natural reaction will be something to see. The ordinary man or woman can be hoodwinked only so many times before they discover that they have been taken for a ride.

The voters of Arizona have been had, and it won't take them very long to find that out.

As soon as the chisellers begin court suits; as soon as penny-pinching employers decide that their workers can get along on half wages; as soon as ambulance chasing lawyers can set up a few phony court cases, the pattern will be clear.

The ordinary worker who has been barely getting by on his daily wage and who finds his wages cut, will begin to pinch down on his buying. As soon as the merchants of the State discover less silver in the till, they, too, will begin to wonder if they haven't been handed the wrong end of the stick.

Unless this Senate bill 65 is declared unconstitutional—which it probably will be—the State of Arizona is in for a tough time.

The people who worked against the bill knew what they were talking about. They told the truth. They knew what was coming if the bill became a law.

The opposition knew, also, what would happen—but they didn't care what happened to the rest of the State if their selfish ends could be met.

It is probable that by this time next week the first symptoms of the calamity will appear. It is as inevitable as night following day.

Those workers who cannot leave the State, and there are thousands of them, will have to bow their heads and try to weather the storm. The older workers have been through all of this before. They know what it means to hold union meetings in secret; to have passwords and secret signs. They know how it feels to regard the man working next to you with suspicion. They know what it feels like to go to work in the morning without knowing whether or not you will finish the shift because some other worker with a hungry belly is willing to work for a few cents a day less.

The old-timers know these things. The newcomers don't know—and will find out the hard way. Many and many a worker is going to discover that the things he has taken for granted don't mean a thing.

Without protection from a union organization, he will be helpless to combat the power and authority with which he will be faced.

This will be a time of testing. It will be a period for separating the sheep from the goats—and the men from the children.

It may be that the labor movement in the State will emerge from this trial strengthened and hardened. It is sure that a hard core of union men and women will remain on which to build again.

One thing is sure. The State labor movement will not cease to fight while there is a chance of defeating the starve-belly proponents of this bill. There are still several avenues of attack—and all of them will be explored.

These ads are examples of the union strategy during the 1948 campaign:

1. Use a large door-to-door force delivering handbills and taking a poll regarding the probable vote. This tactic employed a crew in every district of every county of Arizona—hundreds of workers employed for 5 weeks.

2. Employ network radio shows five evenings weekly.

3. Get other employee groups to run ads supporting labor leaders views.

## ARIZONA LABOR SPONSORS NEW RADIO PROGRAM

Arizona labor is on the air!

Every Monday through Friday at 9:30 p. m., the Arizona State Federation of Labor is presenting a program over radio station KOOL in Phoenix, KCKY in Coolidge, KCNA in Coolidge, KCNA in Tucson and KNOG in Nogales.

Director of the program is former Phoenix mayor, Ray Busey. His program, called Hometown Gossip, will cover a wide variety of subjects.

Witty and informal, Busey offers interesting and educational material, aimed at giving the human side of the news.

Not only labor news and views will be presented, but the program will be open to all viewpoints that will help make Arizona a better place for the people who live and work here.

Defeat Senate bill 65 by putting your "X" at 301 X on November 2.

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VOTE NO ON 301 [X]

Here's why—Senate bill 65 on the Arizona ballot in the November elections has been labeled the "right to work" bill. This is a false label. It should be called the "right to starve" bill.

Senate bill 65 is a dagger at the heart of the working people of Arizona. It would outlaw union-shop agreements. It would weaken labor organizations.

The weakening of labor organizations would be just a beginning. Next in the minds of the enemies of labor is to cut wages, lengthen hours, undermine working conditions.

This would lead to unemployment, a lower standard of living for everybody.

The enemies of labor know they cannot cut wages until they first weaken unions. They want to weaken unions so they can do nothing to protect working people. They want to keep unions in court, drain the union treasuries so they cannot resist low wages.

That's what the "right to starve" bill would mean. Injuring the conditions of the workingman will hurt the community as a whole. What happened when the unions were weak in America? Wages were kept so low the people could not buy. The depression came. The enemies of labor, consciously or not, would restore the conditions that caused the depression.

For the sake of the working people of Arizona, for your own sake, kill the "right to starve" bill!

Vote NO on 301!!! [X]

UNITED STEELWORKERS OF AMERICA, CIO

Phoenix, Arizona

- 
1. Vote.
  2. Your family must vote.
  3. Take your neighbor to vote.
  4. Talk to your friends, ask them to help.
  5. Don't be bashful about talking to anyone you know.
  6. Surveys show that most people favor unions; they are your friends; ask them to vote 301 [X]

IF YOU ARE WORKING FOR WAGES OR FOR A SALARY

If you are working but 8 hours a day; if you have Saturday or Saturday afternoon off; if you are covered by workmen's compensation insurance, unemployment insurance, and other social-security provisions, then you are benefiting directly from the long, hard, weary, persistent effort of organized labor to improve the lot of all working people.

Show your appreciation, and help to preserve these advantages for yourself. Vote 301 [X] on Senate bill 65.

This proposed law is aimed at the destruction of labor unions, and if that is accomplished, the benefits they have brought to society and industry will quickly be destroyed, for there will remain no means by which they can be preserved.

These veterans, employees of Republic and Gazette, are opposed to Senate bill 65. Vote 301 [X]

A. T. Myers	K. Swanson	Robert M. Olvey
Henry Babcock	George Rowland	J. G. Dennis
Frank Luther	R. L. McNabb	John H. Davis
Ralph Sprague	L. O. Hooper	Boyden Clarence Downing
C. J. Hopwood	E. A. Page	Arthur P. Goshorn
J. P. Hennessy	J. J. Henn	James L. Hoffman, Jr.
Roy Hawley	J. J. Besemer	Donald G. Nydegger
E. L. Norman	David Reed	Frank J. Sloan
Wayne Nichols	Robert Rees	Kenneth Walker
C. A. Poulson	F. J. Andrews	Ira L. Welker
W. W. Phillips	M. Koch	Edward B. Young
Robert Farris	W. F. Harvey	Lief Halvorsen
Elmer Rohrbacher	J. R. Powell	Boyd Lambert
Lew Rees	F. W. Estes	William J. Kissel
W. D. Poulson	Otis Barwick	R. B. Taylor
Quannah Deaver	D. R. Wallace	Myron Harshman
A. M. Hager	Robert Pollack	Gordon Parks
Frank Grist	DeMar Jones	Mel Glotfeltz
James Moore	Xavier Gonzales	Fred Wolf
Frank Perko	D. W. Johnson	Don Segal
C. C. Stewart	David Billie	Aaron Wynn

(This advertisement paid for by more than 100 employees of the Republic and Gazette, including the veterans named above.)

#### VETERANS' BONUS COMMITTEE OPPOSES SENATE BILL 65

OCTOBER 28, 1948.

##### *An open letter to Arizonians:*

The Veterans' Bonus Committee is opposed to Senate bill 65. The veterans' committee backing this antilabor legislation has no support from any recognized veterans' organization and several such organizations have deplored the use of the term "veterans" in connection with the legislation.

The bill does not guarantee the veterans any rights. It leaves veterans to compete with other veterans and nonveterans for jobs at whatever wages employers want to pay.

The bill is discriminatory and a danger to the welfare of Arizona. For this reason, the Veterans' Bonus Committee urges that you vote 301—No next Tuesday.

We wish to compliment the working people of Arizona for the dignified and factual campaign they have carried on in spite of the malicious and distorted propaganda used by the reactionary forces backing Senate bill 65.

Again, we urge that you vote 301—No.

ROLAND J. DREY,

*Chairman, Veterans' Bonus Committee.*

Veterans. This time vote for your own welfare. Vote 301—X

Our present Governor certifies that our people have twice voted against the closed shop.

EXECUTIVE OFFICE,

*State House, Phoenix, Ariz., February 15, 1949.*

Senator ROBERT A. TAFT,

*Senate Office Building, Washington D. C.*

DEAR SENATOR TAFT: I have been asked to provide you with information concerning the "right to work" amendment to the Arizona Constitution, adopted by the people of this State in 1946.

A copy of the amendment is herewith enclosed.

The amendment was implemented by an initiated act adopted by the people last November.

With best regards.

Sincerely,

DAN E. GARVEY, *Governor.*

AN ACT Amending the Constitution of the State of Arizona by the addition thereto of a new article providing for and protecting the right of nonmembers of labor organizations to the opportunity to work; to read as follows:

"No person shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization, nor shall the State or any subdivision thereof, or any corporation, individual, or association of any kind enter into any agreement, written or oral, which excludes any person from employment or continuation of employment because of nonmembership in a labor organization."

Effective November 25, 1946, by proclamation of the Governor.

Compiled and issued by:

DAN E. GARVEY, *Secretary of State.*

The Secretary of State shows what our opposition did and did not do in keeping with the legal requirement that expense reports be filed following a campaign.

THE SECRETARY OF STATE.

*Phoenix, Ariz., February 15, 1949.*

MR. DILWORTH BRINTON,

*Mesa, Ariz.*

DEAR MR. BRINTON: On October 25, 1946, expense statements of Citizens' Committee Against "Right To Starve" showing contributions in the amount of \$49,-899.67 and expenditures in the amount of \$34,012.06 were filed. Financial report of Citizens' Committee for Industrial Democracy in Phoenix, Ariz., was filed on October 25, 1946, in the amount of \$1,619 for radio time purchased.

The records in this office show that no expense statements were filed by any opponents to Senate bill 65 for the 1948 general election.

Very truly yours,

WESLEY BOLIN, *Secretary of State.*

The CHAIRMAN. I have here a letter from Mr. Carey which will be inserted in the record.

(The letter referred to reads as follows:)

CONGRESS OF INDUSTRIAL ORGANIZATIONS,

*Washington, February 9, 1949.*

HON. ELBERT D. THOMAS,

*Chairman, Senate Labor and Public Welfare Committee,*

*United States Senate, Washington 25, D. C.*

DEAR SENATOR THOMAS: It has been brought to my attention that General Counsel Robert Denham of the National Labor Relations Board and some other witnesses before your committee have stated or intimated that (1) I am not opposed to the Communist affidavit requirement of the so-called Taft-Hartley law; or (2) that any opposition that I may have voiced is merely nominal; or (3) that I am secretly in agreement with that provision of the law.

I, therefore, wish to state my position clearly for the record.

I was in opposition to that provision of the law while the original bill was being drafted by the committees of the Eightieth Congress. I so stated publicly at the time and on repeated occasions since the so-called Taft-Hartley law was enacted. I also repeatedly stated in public my objection to virtually every section of the law and specifically that section dealing with the Communist affidavits.

At no time have I been adverse to setting forth my categorical reasons which may be summarized as follows:

1. The requirement in the law places in the hands of Communists the power to veto the desires of workers to organize, to extend organization, and to bargain collectively within our American democratic framework. The section, therefore, gives aid and comfort to the Communist Party and its fellow travelers who have always sought, and still continue to seek, chaos, and confusion.

2. No statutory requirement of the kind can possibly be effective in its avowed aim to drive Communists out of union leadership. Only the members of any union can accomplish that objective. It would be far worthier for Members of the Congress to give their attention to statutory measures outlining policies that would improve and extend the processes of collective bargaining, and hence, eliminate the economic chaos and confusion in which communism best thrives.

3. I am in entire and unqualified agreement with other reasons assigned against the affidavit requirement in the testimony presented before your committee in behalf of the CIO by our general counsel, which set forth the position of President Murray and all of the other officers of the CIO on that, as well as on all of the other provisions of the Taft-Hartley Act.

As I have said before, these were my stated view when the law was in the drafting; they have been my views continuously since the law was enacted; they are my views at the present. I have stated these views personally to Mr. Denham, not once, but on very occasion when I talked with him, which, I am sure, he would not deny in my presence.

Sincerely yours,

JAMES B. CAREY, *Secretary-Treasurer*.

The CHAIRMAN. We will meet tomorrow morning in the committee room in the Capitol at half past 9. Mr. Randolph will be the first witness, and we thank him for standing side tonight. I am sure Mr. Brinton was grateful to him for letting him go home.

Senator TAFT. Do I understand Mr. William Green is not going to appear tomorrow morning?

The CHAIRMAN. He will not appear first. We have not heard definitely whether he will come tomorrow or not.

(Whereupon, at 10 p. m., the committee adjourned to Thursday, February 10, 1949, at 9:30 a. m.)

# LABOR RELATIONS

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THURSDAY, FEBRUARY 10, 1949

UNITED STATES SENATE,  
COMMITTEE ON LABOR AND PUBLIC WELFARE,  
*Washington, D. C.*

The committee met, pursuant to adjournment, at 9:35 a. m. in the committee room, United States Capitol, Hon. Elbert D. Thomas, chairman, presiding.

Present: Senators Thomas (chairman), Murray, Pepper, Hill, Neely, Douglas, Humphrey, Withers, Taft, Smith of New Jersey, and Morse.

The CHAIRMAN. The committee will please be in order.

Will the reporter print this statement from Mr. George Dalton of Tucson, Ariz., and then there is a letter from the vice president of the United Mine Workers, transmitting a statement, and with this statement there are some releases which, if the press are interested in them, they may have.

(The statements by Messrs. Dalton and Kennedy follow in turn:)

Mr. Chairman, members of the Labor and Public Welfare Committee of the United States Senate; I thank you for the privilege of being permitted to testify.

I appear before you as a representative of the Veteran's Right to Work Committee of Arizona.

I am George Dalton, of Tucson, Ariz., 34 years old, served in the Twenty-ninth Cavalry during the last war and have four children whose future is my concern. The future and growth of the West has been the concern of my family since 1840 when my great grandfather landed in California.

I am a Democrat.

In 1946 a group of us war veterans, who had just returned home from service in the armed forces of the United States, banded together to aid some of our fellow ex-servicemen. These fellow veterans had been denied the opportunity to obtain or retain employment because of nonmembership in labor unions. We did this because we had earnestly believed that one of the things for which we fought had been that of the freedom of the individual—freedom, if you will, to seek and gain employment without paying tribute to a union boss.

We circulated petitions and had placed on the ballot the following proposal: "No one shall be denied the opportunity to obtain or retain employment because of nonmembership in a labor organization."

On November 5, 1946, the people of the State of Arizona voted by a majority in every one of our 14 counties to place that proposal in our State Constitution.

What I have just made is a simple statement of fact. Actually, our campaign was a bitter one. The representatives of organized labor in our State, in convention assembled, assessed each one of their members \$2 apiece to fight us. They placed great posters on every billboard, telephone post, and wall throughout our State, calling our bill the right-to-starve bill. The businessmen of our State, who were sympathetic to our cause, were so intimidated by organized labor that they were afraid to help us. In fact, several of us on the committee received anonymous letters and some even threats of bodily injury. But the rights of the individual triumphed.

In March of 1947, after our victory at the polls, the Arizona State Legislature passed an enactment known as Senate bill 65. It was a measure designed to

implement our right-to-work amendment. On March 10, 1947, our Governor Osborn an old and tried friend of organized labor, signed the measure. But before the measure could become law, the representatives of organized labor circulated a petition to have Senate bill 65 placed on the next general election ballot. They got the required number of signatures and the law was enjoined from becoming effective until the will of the people could be made known.

On November 2, 1948, the people of the State of Arizona voted overwhelmingly to make Senate bill 65 a part of our laws.

There are 70,000 members of organized labor in Arizona. I would like for you to keep that figure in mind—70,000 members of organized labor.

In the last Presidential election there were 95,000 ballots cast for Mr. Truman. There were 77,000 ballots cast for the Republican candidate.

On our right-to-work measure the people cast 87,000 ballots in favor of it. There were but 60,000 who voted against.

Obviously, members of organized labor voted against the closed shop.

I draw these few facts to your attention because there is a general impression that the election of Mr. Truman has been taken to mean that the Democratic Party has a mandate to repeal the Labor Relations Act of 1947, commonly known as the Taft-Hartley Act. Actually, gentlemen, the election of Mr. Truman did not devolve upon one issue. In Arizona where he received a clear-cut majority, it is quite readily apparent that our people wanted Mr. Truman—but also, they wanted corrective labor laws wherein the rights of the individual are preserved against the power-mad, dues-hungry, collectivist labor boss.

While the Democratic Party was born on May 13, 1792, we know actually that it was conceived in the Constitutional Convention of 1787. At that time the first battles were fought between those who wanted a strong, centralized, Federal Government consistent with national security and those who wanted the least possible Federal Government consistent with national security. In the debates of that Convention can be located the essence of the doctrine of the Democratic Party. Under Jefferson's genius, there was established a party whose theory aimed at direct popular control over the Government: which championed the rights of each individual and was really democratic in theory and in fact; which was based on the fundamental belief that the people are capable of governing themselves; which aimed at the widest possible extension of the suffrage and the fullest measure of personal liberty consistent with law, order, and the national welfare; which favored the strictest interpretation of the Constitution and the conservation of the rights of the States; which opposed the centralization of power in the Federal Government; which believed in equal rights for all, special privileges for none, and stood militantly for religious liberty, free speech, and a free press.

I review these things because today you are considering a measure which to me violates all of the principles upon which my Democratic Party and yours, Mr. Chairman, was founded.

Our party has championed the rights of each individual. But what of these individuals? Must their freedom to gain a livelihood be abridged by having to pay tribute to a union boss?

Our party was based on the fundamental belief that the people are capable of governing themselves. What measure of self-government remain to any individual who is the victim of the closed shop?

Our party aimed at the fullest measure of personal liberty consistent with law. How can one have personal liberty and not be able to seek his daily bread at work of his choice?

Historically, our party has been the strong supporter of ethical and moral conduct. How then can we justify a measure that permits a labor organization unbridled license to force people to join and pay tribute?

Our party has favored the strictest interpretation of the Constitution. Yet today, our Constitution is interpreted so liberally that every business in America is treated as though it operates in interstate commerce. The net effect of this, in the event the measure you are considering becomes law, is to carry the closed shop into every State in the Union regardless of its statutes and constitution or the expressed will of the people. Then too, our party, which has been the proud defender of States rights, would drop another one of its principles by the wayside.

We Democrats believe in equal rights for all, special privileges for none. Let us not discriminate against workers in favor of union bosses. Let us truthfully fight for our belief in equal rights for all and special privileges for none.



Our President campaigned for equal rights and fair employment practices wherein no man should be discriminated against because of his race or religion or color. How then can we justify the Federal sponsorship of the closed shop?

Is it different, then, gentlemen, to discriminate against a man seeking employment because he is a Negro or a Hebrew or a Baptist than it is to discriminate against a man who is a member or nonmember of a labor organization?

I thank you.

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UNITED MINE WORKERS OF AMERICA,  
Washington 5, D. C., February 10, 1949.

Hon. ELBERT D. THOMAS,  
*Chairman, Committee on Labor and Public Welfare,  
United States Senate, Washington, D. C.*

DEAR SIR: Enclosed herewith you will find original and 75 copies of the statement of the United Mine Workers of America on repeal of the Taft-Hartley Act and Senate bill 249, which we respectfully request be filed as part of the record of your committee hearings originally due to close tonight in lieu of any time which may have heretofore been allotted to them for oral testimony before the committee.

Very truly yours,

UNITED MINE WORKERS OF AMERICA,  
THOMAS KENNEDY, *Vice President.*

STATEMENT OF UNITED MINE WORKERS OF AMERICA BEFORE SENATE COMMITTEE ON  
LABOR AND PUBLIC WELFARE RE SUBSTITUTE S. 249

The proposals pending before this committee are the repeal of the Labor-Management Relations Act of 1947 and reenactment of the Wagner Act with certain proposed amendments. The present bill represents an amendment in the nature of a substitute for S. 249, a bill originally submitted on January 6, 1949, by Senator Thomas of Utah, chairman of this committee.

During the past 18 months of its scatter-barrel application and interpretation by its general counsel, and his arbitrary and ruthless use of the weapon of injunction, there has developed under the Taft-Hartley Act a campaign of legal terrorism and abuse, all as was originally predicted prior and subsequent to its enactment. It is (and has proven to be) the "first ugly, savage thrust of Fascism in America." It has sought to "create an inferior class of citizens, an inferior category and a debased position politically for the men and women who toil by hand or brain for their daily subsistence to safeguard the future for their loved ones."

This committee has before it in filed statements, reports, exhibits, and in approximately 3,000 pages of oral testimony adduced in the past 10 days, a wealth of information on this law, its workings, and the burning necessity for its repeal.

The legal problems involved in, and the confusion growing from even an attempted interpretation of that statute can perhaps be tersely illustrated (with propriety, for this phase is not now in litigation) by pointing to just one section alone, i. e., section 302, dealing with union welfare funds. The coal operator representative on the United Mine Workers Welfare and Retirement Fund (from Senator Taft's home State of Ohio), hiding behind this Taft-Hartley law, arbitrarily and capriciously refused to agree to activation of the 1947 fund, and after 9 long months of delay, finally filed suit in the United States District Court for the District of Columbia, seeking to interpret that one section (among the hundreds of other sections contained in the act), and to prevent any distribution of the accumulated funds to the members of the mine workers. He filed one suit, and after an answer had been made, withdrew it. He filed another, and again after answer, withdrew that petition. He filed a third, and while it was pending, filed a fourth. The third action was decided against him, and he then dismissed the fourth—and all of this brought confusion to the industry, which could and should have been otherwise avoided.

Multiple illustrations of this maze and jungle of legal restrictions contained in the bill might well be made. The mine workers need not, however, burden the record with further detailed discussion of the wrongs and injuries, harshly, arbitrarily, and by the use of midnight injunctions, wreaked upon it and its

members. An appeal is now pending from the outrageous punishments inflicted upon the United Mine Workers and its members through the invocation of this law. We shall try our case, however, in the courts, and not in the Halls of Congress.

Much has been said about the right to strike, and multiple suggestions made as to its modification, restriction, or prohibition. We submit, that if it can legally be denied for 80 days, or 30 days, or 30 seconds, it is the denial of a basic and moral right of the American laborer inherent in a free people. As has heretofore been said by this union, this country has never suffered irreparable injury by a stoppage of work, for the limit of human endurance in the realm of industrial strife means inherently that "each strike and each lock-out carries with it the seeds of its own determination." Invocation of the injunction by Government, under express or implied powers, is to torpedo the rule of reason and prevent the free play of general collective bargaining as it should and would (absent restrictive and punitive legislation) be practiced by American labor and American industry.

Heat, passion, prejudice, and pressure never serve to bring about mature and constructive legislation. Our history is replete with illustrations of that fallacy. The present situation is one which demands affirmative, blunt, and quick action to remedy the legal wrong perpetrated upon labor by the Taft-Hartley Act, and at the same time fully justifies and requires a calm and dispassionate consideration on the reenactment of the Wagner Act plus such amendments, if any, as a broad study by a committee of labor, management, Congress, and the public, may, after reasonable study, desire, and recommend.

This committee could be immediately created, after repeal, and enjoined to make report by a day certain, so as to allow this Congress to thoroughly review, study, and legislate in the interest of and for the benefit of all America. We so urge and recommend. The proposed changes in S. 249 substitute, for the most part should receive careful and calm consideration, and they could and should be incorporated in the field of study proposed. Their merits can then be more fully determined.

The United Mine Workers of America again reiterate their well-known position that the best interests of labor, management, our citizens, and our Republic can be furthered more through the immediate repeal of the Taft-Hartley Act and by the application of the rule of reason, through real collective bargaining, voluntary conciliation and mediation, than it can be by any other process—and we rest upon this declaration.

Respectfully submitted.

UNITED MINE WORKERS OF AMERICA,  
By THOMAS KENNEDY, *Vice President.*

The CHAIRMAN. Mr. Randolph, for the record, will you state your name, your position, address, and so on, and anything else you want to have appear about you?

**STATEMENT OF WOODRUFF RANDOLPH, PRESIDENT, INTERNATIONAL TYPOGRAPHICAL UNION, ACCOMPANIED BY JOSEPH RHODEN, ITU; LARRY TAYLOR, ITU; GERHARD VAN ARKEL; AND HENRY KAISER, COUNSEL FOR ITU**

Mr. RANDOLPH. My name is Woodruff Randolph. I am president of the International Typographical Union, residing in Indianapolis, Ind.

Chairman Thomas and Senators, I will read a short summary of the written statement that has been presented.

The written statement which we have submitted to your committee consists of three documents. The first is a statement of the views of the International Typographical Union on S. 249 as amended by the chairman. The second is a booklet entitled "Taft-Hartley and the ITU" which sets forth briefly the agonizing experience of the ITU under the Taft-Hartley Act. And the third is a summary of a contempt case in which we were involved under the Taft-Hartley Act,

stating the background and the implications of that case. I express the hope that the members of the committee may find time to peruse these documents, particularly the second, which demonstrates exactly how the Taft-Hartley Act is a continuing threat to the existence of any craft union.

To summarize these documents is not easy, for each of them is itself a summary of a mass of experience and a body of litigation without parallel in the labor industry of the United States, which will, we trust, never be repeated. But, in brief, they demonstrate that since it was founded in 1852 the ITU has consistently adhered to four principles upon which voluntary trade-unionism is necessarily based. These are (1) an insistence upon respect for the rules laid down by our members concerning the conditions upon which they will sell their services, in order that each union member may democratically and directly participate in determining those conditions, (2) the refusal to work with competing nonunion men whose willingness to work at lower wages and under substandard conditions threatens each member of our union, (3) an insistence upon respect for our jurisdiction in order that craft standards may not be undermined by the assignment of work to lower paid and inferior craftsmen, and (4) the refusal to work on struck or substandard goods produced under sweatshop conditions.

We demonstrate that without being guided by these principles, a union cannot live. We show that the Taft-Hartley Act makes impossible the attainment of these objectives and thereby makes free trade-unionism impossible.

Section 8 (b) (3) requiring unions to bargain collectively has been used to attack the very concept of union rules; our duty to enforce those rules has been attacked as "restraint and coercion" under section 8 (b) (1). The legality of over thirty of our internal laws has been challenged. The right of our members not to work with nonunion men has been limited by denying our right to a closed-shop agreement, and the right itself has been questioned and is doubtful.

A form of involuntary servitude, we are told, is set up by which our members can be required to work with nonunion men against their will. Our right to strike to defend ourselves against the assignment of work to nonunion men is denied by section 8 (b) (4) (D). Our members are made slaves by the provisions of section 8 (b) (4) (A) which compel them, under the whip of an injunction, to act as strike-breakers and to process goods made by men working in opposition to us.

In each of these instances—and each is vital to the preservation of our union—our right to strike in self-defense against efforts to destroy us is denied.

The Taft-Hartley Act may be summed up by saying that it denies the right to strike whenever an object of a strike is to preserve the union—and that right is, of course, more fundamental even than the right to strike for better wages or hours.

We demonstrate in our statement that we decided, shortly after the Taft-Hartley Act was passed, to go down fighting, if we had to, rather than submit to slow decay.

We formulated certain policies which, in our judgment, would protect us, within the law, against the worst ravages of that act.

In pursuit of those goals, and in an effort to preserve an organization which has a century of tradition behind it, which has enjoyed amicable relations with the employers in the industry, which has contributed more than any other single factor to stabilize this industry and the conduct of the men and women employed by it, we have suffered the following:

1. We have been compelled to spend over \$11,000,000 of members' hard-earned dues in support of strikes and other defense activities to preserve the union against the Taft-Hartley Act.

2. We have been subjected to the issuance of eight complaints, containing substantially identical allegations and relying on the same evidence, by General Counsel Denham of the NLRB.

We have been forced to engage in five long drawn-out NLRB proceedings, covering substantially the entire country, at great expense to ourselves and our members, without having obtained a single decision from the NLRB in the course of 16 months of litigation.

3. We have been forced to submit to a sweeping injunction and to a contempt action under that injunction, brought by NLRB attorneys for the chief purpose of breaking a strike of our members at Chicago, Ill., which has continued since November 24, 1947. The only redeeming feature of our experience under the Taft-Hartley Act has been that, despite the best efforts of a coalition of newspaper publishers, General Counsel Denham, the NLRB, and the Federal courts, that strike has not been broken. Nor will it be ended until we have the employers' assurances that they will concede us the same right to live that we so freely concede to them.

4. Collective bargaining in our industry has been carried on, not with our employers, but with General Counsel Denham and the Federal courts.

We demonstrate that this interference with the processes of collective bargaining has gone so far that we were held in contempt of court for, among other things, failing to include a provision for a neutral "tie breaker" in a proposed contract clause setting up a joint employer-union committee for the training of apprentices.

We believe that this is the first time in American history where either a union or an employer was held guilty of violating the law for failing to place some language in a proposal made in the course of collective bargaining, which the employers were free to reject, and frequently did.

I should emphasize that, during this entire course of litigation, when NLRB attorneys cooperating with employers watched the behavior of every member of the ITU, it has never even been alleged that the officers or members of the ITU:

1. Have engaged in violence, fraud, misrepresentation, threats, or any other conduct which could properly be called improper.

2. Have discriminated in employment or caused employers to discriminate in employment against any individual. No person has even filed a charge that he has been discriminated against by any action of our organization.

3. Have unjustly or improperly suspended or expelled any member from our organization, or improperly or unjustly refused to admit any person to membership.

4. Have been guilty of any financial impropriety, or have denied any member the democratic rights which he has as a member of our

union, or have done other than enforce the union rules, democratically adopted by the members themselves.

As Trial Examiner Leff found in the case brought by the American Newspaper Publishers' Association:

Respondents (the ITU) urge in justification of their conduct that their motive and intent was to preserve the union and promote its economic interests. I have no doubt that this was true.

But, under Taft-Hartley, "preserving the union and promoting its economic interests" is illegal. It is for that reason that it should be repealed.

Our statement further shows that the injunctive power under Taft-Hartley is far worse than anything that preceded the Norris-La-Guardia Act; that General Counsel Denham, certainly not with the disapproval of the National Labor Relations Board, has administered the Taft-Hartley Act in a biased and hostile manner; that the so-called "Watchdog Committee" has been used to interfere with the affairs of the executive branch of the Government; that injunctive actions under Taft-Hartley are speedy, but clarification of the law by the NLRB is delayed for weary months running into years; and that the law is so unjust, confused, and contradictory that amending it is impossible.

This experience, plus our analysis of S. 249, as amended, convince us that the Taft-Hartley law should be immediately replaced by S. 249, with certain reservations noted in our analysis of the measure.

We do not welcome all of the amendments to the Wagner Act which are proposed. We foresee the gravest dangers if, through a process of further amendment, more restrictions are placed on free management-union relations. But, recognizing that there are problems with which S. 249 has attempted to deal, we are prepared to accept it on an experimental basis in the interest of speedy repeal of the Taft-Hartley Act. If, in practice, S. 249, as amended, operates to interfere unduly with the carrying on of the normal and legitimate business of our organization, we shall, of course, bring such matters to the attention of the Congress.

(The prepared statement submitted by Mr. Randolph is as follows:)

STATEMENT OF WOODRUFF RANDOLPH, PRESIDENT OF THE INTERNATIONAL TYPOGRAPHICAL UNION, BEFORE SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE ON THE PROPOSED "NATIONAL LABOR RELATIONS ACT OF 1949"

The International Typographical Union had, by June 23, 1947, attained an enviable position in the trade-union movement. With about 90,000 members in 850 local unions, all of them skilled craftsmen in the printing industry and all experienced trade-unionists, with a tradition of almost a century of democratic and progressive trade-unionism, and with a loyal and active membership, it had kept its place since it took the lead in organizing the American trade-union movement. For that very reason—since its practices represented the best in trade unionism—it has suffered (under the outrageous provisions of the Taft-Hartley Act) more than any other union. No other union has been compelled to spend over \$11,000,000 in protecting its existence since June 22, 1947; no other union has been the target of so many complex, arduous and expensive legal actions in the course of a year; and we venture the opinion that few other unions could have survived this trying ordeal. For that reason, I have a special interest as president of the ITU in making this statement to your committee. In accord with the rules adopted by the committee, I shall not dwell upon our Taft-Hartley experience and shall limit myself to commenting on the pending proposals, but with the observation that our bitter experience of the past year and a half give a special emphasis to our views.

Certainly the wisest provision in the proposed bill is section 401 of title I which repeals the Taft-Hartley Act. I am confident that the ITU could not have long withstood the united attacks, under that act, of the employers in the industry, the general counsel of the National Labor Relations Board, the National Labor Relations Board and the Federal courts for an extended additional period. No craft trade-union could survive indefinitely the pressures which our members have borne since the Taft-Hartley Act became the law, and the continuance of that act on the statute books would spell the doom of the free American trade-union movement. We likewise welcome the restoration of the Wagner Act; for 12 years that act was on the books without harming employers, without undue industrial strife, and without altering our free institutions.

The elimination of any liabilities accrued under the Taft-Hartley Act (as provided in sec. 105) is a matter of simple justice. Repeal of that act will certainly not be accomplished if actions instituted under it must drag their weary way through the NLRB and the courts for a period of years to come, wasting workingmen's money and time.

One of the principal changes from the Wagner Act proposed by the bill is the new section 8 (b). Candor compels me to state that I do not relish the principle of introducing into Federal labor legislation unfair labor practices against unions. Our long experience has shown that language in the hands of hostile courts and boards can be twisted into something far different than was intended. When the Wagner Act was being debated, Senator Norris pointed out that "No one thought there was a labor question involved in it (the Sherman Act). \* \* \* But, as it developed, the Sherman antitrust law became a weapon by which labor was almost crushed out of existence because of the construction placed upon the law by the courts. We passed the Clayton antitrust law amendatory to the Sherman antitrust law. \* \* \* The constructions which were put on that law by the courts from time to time practically took away all its force and effect. \* \* \* The courts are going to construe this measure, if it shall become a law, and when we get through we may not know our own child. One man, sitting as a district judge, can nullify, by a stroke of the pen, the acts of the President, the Senate, and the House of Representatives even though their action be unanimous." The history of labor legislation in this country, from the Clayton Act through the Norris-LaGuardia Act up to the present measure (excluding, of course, the Taft-Hartley Act) is the history of the effort to free labor from the pressure of hostile and ill-informed judges. I think we can be confident that any slightest opening in our Federal law will be pried wide open by the judiciary. While my own strong preference is that no unfair labor practices against unions be included in this measure, the limited and restricted provisions of this bill could, I believe, be tolerated in the interests of early repeal of the Taft-Hartley law.

But if they are to be included, it should be made crystal clear, in presenting the bill, that injunctive relief is not to be available as a method of enforcement. Unfair labor practices by employers were never enforced through injunctions under the Wagner Act, and it should be stressed in every possible way that there is to be an equality of procedural treatment under the new bill. Under Taft-Hartley, unions alone were the targets of injunctions, except in two cases. In the Boeing case, a district judge refused relief against the employer, and in the General Motors case the company was enjoined from paying out benefits under a pension plan to its employees—hardly the kind of restraint about which the company could be expected to complain bitterly. Taft-Hartley was a one-way injunction street against unions; and unless great caution is exercised a new bill containing unfair labor practices against unions may suffer the same fate. For these reasons we should welcome a clear statement that injunctive relief will not be available in connection with section 8 (b) except that the Norris-LaGuardia Act shall not apply, as now stated in section 401 of title IV, to the enforcement of Board orders. And we feel that this should also be made quite explicit in the committee's report on the bill.

Section 8 (b) (2), which is to be read in conjunction with the proposed new section 9 (d), arouses considerable misgivings. The "jurisdiction" of a union is the area in which it solicits its membership. That area is determined by underlying economic factors; it is our necessary objective to protect the jobs and the working standards of our members by assuring, so far as we can, that union standards are met on all printing processes or substitutes therefor. We have never resisted the introduction of new processes which were advancements in the art, but we have studiously attempted to see to it that new processes were not more economically advantageous by wage-cutting at the expense of our mem-

bers. With its long tradition, the ITU cannot be enthusiastic about a law which states that the Government will perform the function for the labor movement of determining which union shall perform particular work tasks. The problem of jurisdictional strikes is not serious—they constitute only a trivial percentage of all strikes—but the right of a union to fight for its jurisdiction is important. If a weak or conniving union were to enter the printing field and seek to extend itself by agreeing to conditions below those which are standard in the trade, our members would rightly insist that we seek to meet that kind of competition by every means at our command. The "jurisdictional strike" is not merely or solely a question of union membership; it may and does involve basic economic issues in maintaining or extending the standards of a craft.

Happily, we have in the past had few jurisdictional disputes with other unions, for our craft is well established and our position generally respected. But, if in the future, it becomes necessary for us to maintain the standards of our craft against raiding by another organization which seeks to undermine our standards, we feel that we should retain the elemental right of self-defense. For these reasons, we view with grave concern a grant to the Federal Government of the power to shape the growth of the trade-union movement—and that is the power conferred by these sections. It is a continuing intrusion upon the right of self-help, which is the basic premise of trade-unionism.

Even though we hold such misgivings the provisions of section 9 (d) do provide a guiding procedure for the Board to follow, which is a vast improvement over the devastating provisions of the Taft-Hartley law on the same subject. Because of the urgent need for quick repeal of the Taft-Hartley law so that normal contractual relations between employers and our local unions may be resumed, we will not oppose these provisions of the bill, but accept them on an experimental basis.

The language of the bill seems quite clear in outlawing the secondary boycott only where used in an effort to secure recognition against a Board order or certification or an existing agreement, or in furtherance of a jurisdictional dispute. To go beyond this in dealing with secondary boycotts means the destruction of the trade-union movement. The blanket prohibitions of the Taft-Hartley Act had the result that our members were compelled to act as strikebreakers against one another against their will. The theory of the common law was quite clear in allowing either employers or unions to seek allies in an economic dispute by proper means. Under Taft-Hartley unions not only could not seek allies, but were forced to work against their direct interests, while employers remained scot free of any restraints whatsoever in seeking assistance in a war against unions. And while, as I have already indicated, we do not welcome the restraints retained by this bill, we feel we would not be destroyed by them as we could be by the Taft-Hartley provisions.

I offer our enthusiastic approval of section 107. We have in recent years come to recognize that the laws applicable to industries engaged in interstate commerce should be uniform, for where competition runs across State lines, industry will inevitably gravitate to that State with the worst laws. Certainly one of the most outrageous provisions of the Taft-Hartley Act was that which encouraged States to adopt the most repressive laws dealing with union security by giving them Federal recognition. This section of the bill effectively eliminates that injustice, while performing a service for the economy of the country as a whole.

It seems clear from an examination of the bill that no sanctions are intended for the obviously desirable objectives stated in sections 204 and 205, dealing with the settlement of disputes arising during the life of an agreement. The ITU has been a pioneer in this field, and our techniques are, we feel, among the best that can be devised. But Government compulsion is another matter; to require that these things be done is to substitute compulsory arbitration for free collective bargaining. We hope that here, as in the case of sanctions for the unfair labor practices against unions, no slightest room for uncertainty concerning the intention of the Congress should remain, and that both the bill and the reports on the bill should make it clear that these sections are not enforceable through any methods other than those set forth in the bill itself. And the same observation is to be made of sections 301 through 303; the unavailability of injunctive relief should be spelled out.

We attest the wisdom of title II of the bill transferring the United States Conciliation Service to the Department of Labor, where it was for many years from its inception, and where we believe it belongs. There was no evidence of it having functioned in a partisan spirit or improperly during all those

years and both labor and management respected it and made use of it whenever it suited their purposes. It was truly impartial because of that fact; not because of any law to that effect.

The administration bill does provide that "the Director and the Service shall be impartial." That provision obviously directs their course of conduct as does succeeding language of the section. There is no other definition of impartiality in the law and since our courts with great powers to make decisions need no such injunction, a mere conciliation service having no power can at least bear such an injunction in mind until it learns that in order to be of any service at all both employers and unions will have to be satisfied with the acts and functions of the person seeking to mediate or conciliate.

One great fault of Mr. Ching's testimony is that he "protests too much." Whether he is "impartial" does not depend on testimonials to that effect nor on whether he has been appointed by an impartial Republican or Democrat, if such there be. According to Mr. Ching, impartiality is important but difficult to find especially in the Department of Labor. The assumption that any other department such as his is more competent to find and trap that illusory quality for appointment to the Conciliation Service seems quite unwarranted. This is more especially true since nearly all the present personnel (now acceptable to employers) was inherited by him from the Labor Department.

Thus Mr. Ching's impartial personnel was also impartial when working under the Department of Labor.

As a practical labor executive I have followed the Biblical advice, "By their works ye shall know them," not by whom they were appointed nor by their titles; neither by their politics nor background.

The emphasis by Mr. Ching on the employer's acceptance or nonacceptance of the personnel of the Service somewhat tarnishes his impartial brilliance. He expressed no worries as to the attitude of the unions. As a matter of fact, acceptance by unions of the personnel of the Service is far more important to the accomplishment of any practical results.

The conciliators are ambassadors of good will and cooperation, ready to help either side on procedural chores and do more than one good turn a day. To magnify their importance does not help them in their work.

As a labor-union executive for over 20 years I am glad to say I have never had cause to complain about the Conciliation Service unless its desire to be helpful expressed so often and in so many places could be objected to. As a matter of fact, the well-established collective-bargaining procedures of the ITU hardly left any room for use of the service.

Mr. Ching testifies that employers are less "suspect" of the service since it has not been under the Department of Labor. I testify that so far as our organization is concerned, I am more suspicious than before. The reason is not because of the personnel, but because the personnel was placed under a new head through the Taft-Hartley law. The historic impartial activity was then subject to a different direction by one serving the purposes of what I regard as a labor-destroying law. That is no reflection on Mr. Ching personally.

Mr. Ching stated he wanted no phony statistics from his regional commissioners. I recently received a questionnaire which is being mailed to unions filing 30-day notices under the Taft-Hartley law. That form represents a correspondence method of conducting the service. It is easy to see where the follow-up form requesting information as to the final results attained can be used to show cases settled at a cost of only two postage stamps and the forms.

It would be inappropriate not to praise this bill for what it omits. As compared with the Taft-Hartley Act, it gives collective bargaining a shot in the arm by restoring the freedom to negotiate concerning such matters as union security, the check-off, health and welfare funds, struck and substandard work, union jurisdiction, and all other matters. Even without the clarifications we have suggested its provisions represent a notable improvement in draftsmanship over the vague, confused and conflicting provisions of the Taft-Hartley Act. We have been proud of the fact that access to courts and governmental agencies in our country has not been limited by race or color or political beliefs, and the elimination of the insulting anti-Communist affidavit requirement marks a return to a healthy tradition. The restoration of the full vigor of the Norris-LaGuardia Act (passed by a Republican Congress and signed by a Republican President) revives another cherished labor freedom.

If S. 249 with amendments in the nature of a substitute as proposed by Senator Thomas becomes law:



1. It will restore the opportunity to bargain for the closed shop which has been essential to the maintenance of the International Typographical Union as a craft union. It is obvious from the experience of the past year and a half that employers have attempted to destroy the union by the use of the Taft-Hartley Act. The adoption of the Thomas bill will largely halt that destructive effort. A craft or trade is made up of many kinds of tasks, jurisdiction over which is necessary if the trade is to be maintained as such and if a trade or craft union is to live.

The closed shop in no way limits the democratic freedom of our members. Under our constitution and bylaws they have a complete and untrammelled right to vote on any issues affecting their interests. The ITU is the members' union and it is the members who determine how the union shall operate and what duties its officers shall perform. No member may be expelled or suspended except in accordance with the rules which the members themselves have adopted, and these rules include the right to a fair hearing, an appeal to the executive council of the union, and finally, an appeal to the convention of the union itself. It is unthinkable that we would not follow the rules we have laid down for our own government, but if we did there would be a further right of appeal to the courts against arbitrary or unfair action.

The closed shop in no wise limits the democratic rights of nonunion printers. By his own choice, the nonunionist denies himself democratic rights, for only by coming into the union does he have a voice in determining the rules which will govern his relations with his employers. So long as he remains nonunion, he is, by his own choice, outside the process by which the rules that govern most workers is made. Any individual who is qualified at the trade may demonstrate his competency and become a member of our union. We are constantly admitting new members and we want all qualified printers in our union.

2. Adoption of the Thomas bill will restore the opportunity for the International Typographical Union to continue to bargain unhampered for the training of apprentices in the trade and maintain unhampered the unimpeachable system of apprentice training so long carried on by the International Typographical Union and used as a model by those attempting to further apprentice training through Government help.

The closed shop does not unduly limit employment in the industry. It is true that over the years we have, in cooperation with employers, taken over a large share of the task of training new apprentices at the trade; frequently, because of the lack of interest of the employers, we must take over the whole job. Our collective agreements establish apprentice ratios; that is to say, a certain number of apprentices only may be hired in relation to the number of journeymen. This is done largely on the employer's insistence, for he understandably does not wish his working journeymen to spend all their time instructing apprentices and none turning out his work. In many enterprises throughout the country employers have refused to take on the quota of apprentices to which they are entitled and thereby participate in the training of new men in the field.

We say without apology that the apprentice quotas perform another valuable service to the industry by limiting the number, though not designating the individuals, who learn the trade. Until 1940 there was always unemployment among printers despite the operation of these ratios, so that it cannot be said that they have been fixed to cause a scarcity of printers. The peculiar conditions of World War II, when almost no apprentices entered the field, did cause a temporary scarcity since that time which has now all but disappeared. Through upgrading of apprentices and by cooperating to place veterans, we have cooperated with the industry to overcome this temporary shortage. But the unlimited acceptance of apprentices would (a) be unacceptable to employers who were asked to supply facilities for training them, (b) flood the market, in less prosperous times, with trained craftsmen for whom there were no jobs, (c) depress the wage standards in the industry. Our objective is to raise wages and working conditions, not to depress them, and it will hardly be expected that we will cooperate in a program either of unlimited access to the industry or unlimited access to our union with the sole objective of reducing the employers' wage bills. Our members have an interest in how this industry is run, and it is our job to protect that interest.

3. Adoption of the Thomas bill will make it possible for unions to support the members who refuse to handle struck work or nonunion work produced by non-union competing employees. This right, so long enjoyed, has made it possible for those employers who are willing to pay fair wages and grant fair working conditions to continue in business, to compete among themselves and to compete

with those who choose to run nonunion shops and operate under substandard conditions. Experience of the past has indicated that fair employers can compete with the unfair employers under the stabilizing influence exerted by the better trained craftsmen supplied by the historically fair practices of the International Typographical Union. The nonunion shops have followed union wages and practices to the degree necessary to hold their help. The ability to produce under fair conditions has made up for the unfair advantage the nonunion employer had by virtue of lower wages and longer hours. It is only through the successful closed shop in the printing industry that this stability has been maintained. Otherwise cut-throat competition will become the rule and the industry composed of over 30,000 units will lose its opportunity to pay fair wages and operate under fair working conditions.

4. The union has been flexible enough to supply trained craftsmen to man shops in the less favorable areas and by maintaining a high degree of organization cut off the supply of poorly trained craftsmen who may be available for competitive and strike-breaking purposes. The International Typographical Union issues charters to competent craftsmen in cities where eight or more desire to form a union. Obviously, such small unions must have assistance from an international organization if they are to maintain high standards and be a credit to the industry. There are over 400 unions in the international union having less than 25 members each.

5. Adoption of the Thomas bill will make it possible for the International Typographical Union to pursue, unhampered by bureaucratic interference, its historic policy of collective bargaining based on the very cornerstone of stability arrived at through democratic methods. For over a hundred years the fundamental basis of a union shop has been the acceptance by employers, as a prerequisite to all other conditions of the laws of the union. Such laws as were of an economic character and which established a minimum basis for union shop operation all over the country provided a floor upon which collective bargaining was erected. Most important of these laws were those requiring a closed shop, a system of priority, a system of apprentice training and the regulation of the number of apprentices to be employed at a given time, laws governing the method of determining the fairness of discharges and methods of handling grievances and procedure for the arbitration of disputes arising as to interpretation and enforcement of agreements. No variation has been permitted in the application of the basic fundamentals constituting the floor of collective bargaining and their interpretation has rested with the union which has adopted them. Their universal application and interpretation has provided a desired stabilizing influence in the industry.

6. The adoption of the Thomas bill will make it possible for the union to continue to maintain the Union Printers Home at Colorado Springs, Colo., and make it possible to continue to pay pensions of \$15 per week to more than 7,000 aged and incapacitated members as well as to pay mortuary benefits of up to \$500 on the death of a member. Obviously, these features cannot be maintained if the closed shop is permanently abolished and nonunion men work in shops as free riders on the efforts of union men. Such nonunion men refuse to bear their fair share of the laudable and necessary efforts of union men. Obviously no strike for better wages or conditions can be successful if an employer can dilute the personnel of a shop with enough nonunion men selected by him and perhaps paid more than the union scale so that they will supply a strike-breaking nucleus for continued operation during a strike. Without question such a strike-breaking nucleus of nonunion men would destroy the morale of the union and while preventing the possibility of a strike would also prevent reasonable progress of working people obtained through bona fide collective bargaining.

7. The rights of an individual as regards securing a job have been overstressed to a point of being ridiculous and fantastic. The rights of an individual are important, but the rights of ten individuals or a thousand individuals are ten times or one thousand times more important. It is a sound premise that individuals may do collectively what they have a legal right to do individually. If one individual has the right to contract for a job, there is no reason why one thousand individuals or any number may not contract with an employer for jobs. Neither one individual or a thousand may walk into a plant and declare themselves in.

The closed shop as it exists in our industry has denied no one the "right to work." In the first place, there is no "right to work;" if there were, our members could go into court during a depression and enforce that right instead of remaining idle.

To say that a man must know his trade in order to work in this business is true of every other line of endeavor, and if he knows his trade, is of good char-

actor, and is willing to pay his dues, he can come freely into our organization. Under the Taft-Hartley Act, a man can be forced into a union at the end of thirty days; we do not want and have never accepted the principle of compulsory unionism and accept into membership only those who freely apply for such membership. We deny no one the right to work at this trade; we do impose certain conditions upon working in certain shops. Those conditions are not onerous, are democratically fixed by the action of the vast majority of the men employed in the craft, and are designed solely to protect the interests of those working at the craft and the competency of persons employed in it. If there are only 500 jobs available and there are 1,000 persons seeking employment in a plant where there is no union at all, 500 are going to be unemployed and the rights of the individuals to a job are wholly nonexistent. If, on the other hand, the employer and the union maintain stable conditions for 500 men in the plant and such replacements as are needed, it is a laudable effort and one which will result in not attracting greater numbers hoping for work and tending to force down labor standards. Since labor unions are recognized by law as necessary to protect workers against the greed and oppression of employing corporations, the law should not, directly contrary thereto, also provide laws under which organizations of labor can be destroyed by the very forces the law seeks to check.

The existence of a substantial number of closed shops means that there is a pool of jobs available to our members. Under our seniority system, which we call priority, a union member who has established his seniority in an enterprise receives a preference in hire over those junior to him, and thus skill and experience are recognized and rewarded. Out of their long experience, our members have developed an antipathy for working with nonunion men; not because they dislike them personally except in some cases, but because they recognize in the nonunion man one who is unwilling to be bound by the rules by which our members govern their conduct and who is, therefore, a threat to the stability, solidarity, and bargaining power of the union. The closed-shop agreement avoids any difficulties which might arise from the hiring of nonunion men. Our employers recognize this tradition, and only a neophyte in the business would undertake to introduce a nonunion man into a union shop.

I have indicated some doubts about some provisions of this bill. But on balance, it represents so marked an improvement over present legislation that the ITU is prepared to give its support. If the reservations which I have expressed raise difficulties, in the event this bill becomes law, we shall of course call them to the attention of the Congress. If they do not materialize, so much the better. But I am confident that this bill represents the maximum of regulation which should be inflicted upon unions and that no amendments of it should be countenanced. To go any further than does this bill can only entail a repetition of the Taft-Hartley experience. That experience should by now have indicated that the labor movement of this country is prepared to fight hard to retain those essentials of free trade unionism which are also the essentials of our political and economic democracy.

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#### TAFT-HARTLEY AND THE I. T. U.

THE PUBLIC INTEREST DEMANDS REPEAL OF THE TAFT-HARTLEY LAW AND REENACTMENT OF THE WAGNER ACT AS THE FIRST DUTY OF THE 81ST CONGRESS

(Issued January 28, 1949, by the International Typographical Union)

Ever since the Taft-Hartley Act finally became law on Aug. 22, 1947, the International Typographical Union and its 90,000 members have been continuously bedeviled by a course of litigation without parallel or precedent in the history of labor relations in the United States. Why was this old (organized in 1852), democratically operated, honest and experienced union singled out for attack? What were the issues? What are the lessons to be drawn from this experience? The apparently imminent repeal of the Taft-Hartley Act may make such questions seem academic—yet the issues involved are vital and it would be a mistake to dismiss these cases as merely last year's litigation.

#### THE TAFT-HARTLEY ACT

On June 22, 1947, Congress passed, over the President's veto, the Taft-Hartley Act. The impact of that statute on the principal ambitions of the International Typographical Union and all other labor unions was catastrophic. It clearly

outlawed the closed shop and put into question the right of union men to refuse to work with competing nonunion men. It jeopardized the practice in the printing industry of hiring in order of seniority (called "priority" in the trade). The asserted power of the employer to hire whomever he wished opened up the prospect that employers would freely displace union members with nonunion men, thereby threatening the job of every union member and the existence of the I. T. U. itself. In Section 8 (b) (4) (D) the Act appeared to say that a union might not strike to protect its jurisdiction; if the employer chose to assign work to nonunion men in a particular "trade, craft or class," the I. T. U. would then be helpless to protect its existence and the jobs of its members. It made illegal any strike or "concerted refusal \* \* \* to handle or work on any goods \* \* \* where an object thereof is \* \* \* forcing or requiring any employer \* \* \* to cease using \* \* \* or otherwise dealing in the products of any other producer, processor or manufacturer. \* \* \*" That meant that union men could be compelled, by force of law and the courts, to act as strikebreakers against their fellow unionists, and could be compelled to cut their own throats by working on products manufactured under substandard conditions. By requiring the I. T. U. to "bargain collectively" (as later interpreted) it threw in doubt the operation of all union rules (called "laws" of the I. T. U.).

The penalties were Draconian. For certain strikes the I. T. U. might face (1) a mandatory injunction at the behest of the General Counsel of the NLRB, (2) suits for violation of contract, (3) damage suits by *any* person injured, no matter how remotely, (4) loss of employe status for those participating in the strike and (5) unfair labor practice proceedings before the NLRB. Any violation of any kind entitled employers to one or more of these remedies.

In considering the problems raised by Taft-Hartley, President Randolph and the other members of the Executive Council of the I. T. U. retained certain convictions. One was that the right of the workers to form and join trade unions was, as Chief Justice Hughes had said in *NLRB v. Jones and McLaughlin Steel Co.*, 31 U. S. 1 (1937), a "fundamental right" which did not depend on the benevolence or charity of the government but arose out of the right of free men to band together for lawful purposes. They therefore rejected, out of hand, the concept of the Taft-Hartley Act that trade unionism was a government grant, which could be conferred or withheld at the pleasure of Congress. A second was, as the August, 1947, Convention of the I. T. U. subsequently expressed it, that "there should not be, and will not be, any attempt on the part of the International or subordinate unions to violate any valid provisions of this law, or of any law, federal or state." And a third was that a meek submission to this monstrous assault on settled liberties and traditional practices could mean only death for the union. Obedience to the law did not require that every worst interpretation of its provisions by the employers in the industry or the General Counsel of the NLRB had to be accepted, or that methods might not legitimately be sought to avoid its worst consequences.

This was also the mood of the delegates to the I. T. U. Convention, held at Cleveland in August, 1947. The I. T. U. has traditionally had two political parties among its members, and unanimous action of the delegates to its conventions is rare. But, unanimously, that Convention adopted a collective bargaining policy which was the united answer of the I. T. U. to Taft-Hartley.

#### THE COLLECTIVE BARGAINING POLICY

From early in the Nineteenth Century, until about 1886, the collective bargaining agreement was an almost unknown phenomenon in the United States. The employer, in "recognizing" a union, accepted the union rules covering wages, hours and working conditions, without a written memorial of those terms—which were to be found in the union's rules and laws. Even in 1947, almost a quarter of the I. T. U.'s 850 local unions had no written agreements; the same remains true of many other craft unions. After careful study of the Taft-Hartley Act and full debate, the I. T. U. Convention concluded that the written collective bargaining agreement was, under that Act, loaded with excessive and legalistic baggage. If a union, holding a contract, took steps to protect its existence against employer efforts to destroy it, it could be sued for breach of contract with consequent heavy financial liability. The freedom of action of union members was, under such conditions, nullified, while the employer was left free to operate as he might against the union's interests. Having in mind a half century of its history, and the experience of a fourth of its locals, the Convention resolved to manage without collective agreements to the extent possible.

While not a complete protection against Taft-Hartley, this policy at least removed one major impediment to the exercise of the right of self-defense.

And so, ironically, the union which had been in the van of the movement for the collective bargaining agreement found that, under Taft-Hartley, it was preferable to return to older methods of doing business under scales of prices, now called "Conditions of Employment." The I. T. U. did not contemplate the abandonment of collective bargaining, as was widely misrepresented; discussions and understandings with employers were expressly anticipated. But both employers and local unions were to be free to reopen matters at any time; the policy thereby approached collective bargaining realistically, as a continuing process, rather than as a sporadic affair to be engaged in at stated intervals of one or two years.

But in the intervening years since 1886 some observers had made a fetish of the collective bargaining agreement. Instead of looking to the realities of labor-management relations—the peaceful accommodation of industrial problems through discussion and compromise—they looked to one outward form: the written agreement. For such observers the question was never: Are relations between the parties good? but: Is the agreement between the parties properly written, sealed, and signed by duly authorized agents? and the like. These prejudices were rudely shaken by a union policy that looked to the realities of collective bargaining rather than to its forms.

And more sinister forces were at work. Since the early 1900's the American Newspaper Publishers' Association, through its Special Standing Committee on Labor Relations, had been fighting the laws of the I. T. U., and thereby sought to break down the principle of democratic trade union action. It had been their uninterrupted ambition that the "laws" of the union should be treated, not as a compact among the members as to the conditions under which they would sell their labor, but as a mere starting point, to be diluted through chaffering, haggling, and arbitration. Taft-Hartley was the golden opportunity to gain a vital point—to make certain that decisions would not be made by the members of the union, but by the employers, or third parties, or a combination of both. If the union laws could be sufficiently compromised at enough points, a gradual but inevitable reduction in union standards would be assured, to the clear benefit of the employers in the industry. To these ambitions the National Association of Manufacturers and the Chamber of Commerce gave a sympathetic attention, for it was clear that if the I. T. U. policy were successful and spread to other unions it threatened the hard-won gains which large corporations thought they had achieved through the Taft-Hartley Act.

Against this policy of the I. T. U. the proponents of Taft-Hartley swung into prompt action. The delegates to the I. T. U. Convention had scarcely left their seats before Thomas Schroyer, General Counsel for Senator Taft's Labor Committee, speaking to the Printing Industry of America Convention, denounced the policy as "illegal"—long before any NLRB hearings had been held or decisions reached. Elisha Hanson, counsel for the A. N. P. A., distributed opinions to all newspaper publishers advising them that they should refuse to discuss wages, hours, or working conditions with the I. T. U. until the I. T. U. first agreed to a "legal" contract—meaning thereby his definition of "legal."

#### DENHAM MOVES IN

The first NLRB case arose in Baltimore. There the commercial printing employers filed charges, alleging that the I. T. U. and Baltimore Local No. 12 were "refusing to bargain collectively," despite the fact that numerous meetings had been held and that the employers, following the A. N. P. A. lines, had themselves refused to discuss wages, hours, and other conditions of work. A complaint was issued on Sept. 26, 1937, setting a hearing for Oct. 6.

Oct. 6 was also, interestingly enough, the opening date of the American Federation of Labor Convention at San Francisco, which the principal officers of the I. T. U. were, of course, required to attend. That Convention was to run until Oct. 20, and in view of the importance of the case, the I. T. U. asked a postponement until after Oct. 20 in order that the officers of the Union might attend the hearing. General Counsel Denham (the prosecuting officer, who, under Taft-Hartley, decides such matters) granted the postponement to Oct. 13; an obviously deliberate and malicious effort to force the officers of the I. T. U. to choose between the A. F. of L. Convention and the Baltimore hearing.

In the meantime, in view of the widespread employer attacks on the collective bargaining policy of the I. T. U., and the complaints of illegality by Denham, the Executive Council of the I. T. U. determined to propose a form of contract to

employers. The form which was used (later known as Form "P6A") was unashamedly and deliberately devised to protect the I. T. U. and its locals against efforts of employers to destroy it, and to take advantage of the few recourses left by Taft-Hartley. For that very reason it met with immediate and stubborn opposition by employers. Their attorneys advised it was "illegal" (though every clause in it, with a single exception, was subsequently held lawful by some Trial Examiner of the NLRB). The new willingness of the I. T. U. to enter into collective agreements did not deter the NLRB General Counsel. The Baltimore hearing went forward as scheduled.

In late October, after ten days of hearing, that case concluded. In November, the General Counsel moved to reopen the hearing to add a complaint that the I. T. U. had caused the employers to "discriminate" against nonunion men, though there was no individual brought forward, then or at any time during the course of this entire litigation, who could testify that he had been discriminated against as the result of any action by the I. T. U. The motion was granted, a one-day hearing was held in early December, and the record was closed. *Yet it was April 20, 1948*, before the Trial Examiner issued an Intermediate Report, a period of about six months from the real close of the hearing in late October. There the case has rested; to this time the NLRB *has not even heard oral argument* on the exceptions to the report which were filed by the I. T. U., much less reached a decision. This is the speed with which administrative procedures move under the Taft-Hartley Act.

In the meantime, events moved forward in other quarters. A strike had been in progress between the Nassau County, New York, Local of the I. T. U. and the Daily Review Corporation, a newspaper publisher. With the direct participation of the A. N. P. A., charges were filed and a complaint issued in early November 1947 by General Counsel Denham against the I. T. U. and its local. The hearing began in December 1947; the complaint covered substantially the identical matters which had already been heard in the Baltimore case and relied on substantially identical testimony. Charges had been filed by a member of the Union against the employer charging that he had refused to bargain. In his report, issued on June 7, 1948, *the Trial Examiner found that the employer had refused to bargain collectively*. Nevertheless, Denham dismissed the charges which had been filed against the company, and refused to proceed with them. In this case, too, there has been no argument before the Board, and no decision by it, though half a year has elapsed since the case was transferred to the Board for decision.

On Nov. 10, 1947, Denham had issued yet another complaint against the Los Angeles local and the I. T. U.; a subsequent agreement between the employers and the local union resulted in a dropping of the case. But it was clear that Denham did not intend to leave decision of these matters to the processes of the Act. The issuance of three complaints, containing substantially identical allegations and relying on the same evidence, could spring only from a desire to so harass the I. T. U. by litigation that it could cry quits before any decisions could be obtained. The attorneys for the I. T. U. therefore approached Denham; they pointed to the expense to the Union of litigating the cases already in process, the waste of Government funds involved in continually relitigating the same matters on the same evidence, and asked a halt in the issuance of complaints until the cases already heard were decided by the Board.

The answer was prompt. On Nov. 21, 1947, Denham issued yet another complaint, this time on charges filed directly by the A. N. P. A. The complaints previously issued had been limited to a single local union and the I. T. U.; this complaint covered all newspapers wherever located throughout the United States. Its scope was unlimited, and was sufficiently broad to cover all negotiations of the I. T. U. with any newspaper anywhere in the United States after Aug. 22, 1947. Again, the allegations were identical with those already tried, and it was evident that Denham was relying on the same evidence which had been used in previous cases.

On Dec. 7, 1947, that hearing opened. Fourteen attorneys were present representing the newspaper interests and the General Counsel. At the outset of the hearing, one outstandingly important legal issue presented itself. The I. T. U. is not a bargaining agent; local unions conduct collective bargaining negotiations. The complaint in the A. N. P. A. case did not charge that the I. T. U. had refused to bargain collectively, but claimed that the I. T. U. had "restrained and coerced" its locals into refusing to bargain. If this claim constituted a violation of the Act, then hearings would be required in each local situation to determine whether the I. T. U. had in fact "restrained or coerced" its locals; if not, the hearing could be speedy and inexpensive since hearings on local negotiations in many cities of the

United States could be avoided. The I. T. U. therefore moved to dismiss that allegation on the ground that it did not charge a violation of the statute. The Trial Examiner agreed with the I. T. U., and struck the allegation, though denying the motion of counsel for the I. T. U. to strike other allegations.

The General Counsel thereupon announced that he would appeal the Trial Examiner's ruling to the NLRB, and attorneys for the I. T. U. announced that they would cross-appeal. Telegrams to that effect were sent. Five days later, *without hearing argument or allowing briefs to be submitted*, the NLRB summarily reversed the Trial Examiner's ruling, denied the I. T. U.'s motion to appeal, granted the General Counsel's motion to appeal, and reinstated the disputed allegation in the complaint. It thereby, without hearing, doomed the I. T. U. to hearings which were not concluded until May 1948. And, ironically, when the question later arose in another case the NLRB adopted the position of the Trial Examiner and the I. T. U. (*Matter of National Maritime Union*, 22 LRRM 1289). In reversing the Trial Examiner, the NLRB served notice on all unions that they could be forced to hearing on any allegation put forward by Denham, no matter how ill-founded as a matter of law, and that not even a right to be heard on the matter would be granted, even though the Trial Examiner agreed with the Union's position.

Under this shotgun complaint, the General Counsel began, on Jan. 8, 1948, to hold hearings in Chicago where the members of the I. T. U. local had been on strike against the Chicago publishers since Nov. 24, 1947. After there had been ten days of hearings, at the usual great expense to the I. T. U., Denham through his Chicago regional office issued yet another complaint; this time against the I. T. U. and its Chicago local. This complaint contained allegations practically identical to those of previous complaints, *but covered matters on which the testimony had already been taken* in Chicago. At the same time he announced that these cases would not be consolidated for hearing; that is, he proposed to repeat the identical evidence on identical allegations which had already been heard. Only the threat of counsel for the I. T. U. to withdraw from the case entirely, as a clear denial of due process, produced a change in this ruling and allowed consolidation of the cases.

Not until Jan. 26, 1948 (over two months from the time the complaint was issued) did the General Counsel supply the I. T. U. with a list of the cities where hearings were planned to be held pursuant to the I. T. U. demand for a bill of particulars. Then began a travelling circus: Hearings at Detroit, Buffalo, Albany, and Washington, covering places dispersed throughout the United States. In May 1948 the hearings concluded; in August 1948 the Trial Examiner issued his intermediate report. *That case has not yet been heard or decided by the Board.*

#### THE INJUNCTION

One would suppose that the issuance of five complaints involving the same issues and evidence would satisfy the most litigious man. Not so. On Jan. 16, 1948, the General Counsel applied for an injunction under Section 10 (j) of the Act in the United States District Court for the Southern District of Indiana, based again, of course, upon the same allegations and the same evidence. But here the General Counsel was under no burden of proving a case; under the Act it is enough if his agent has "reasonable cause to believe" that the law is being violated. Since the final decision in the case was to be made by the NLRB, and not by the Court, the I. T. U. attacked the Constitutionality of Section 10 (j) on the ground that it did not confer judicial power on a Constitutional court; it further argued that Section 10 (j) clearly contemplated that such actions were to be brought by the Board and not by Denham and that the Board had not given such power to Denham. At the argument before the court, for the first time and with the obvious consent of the Board, a document called a "Confidential Memorandum" was produced, dated August 1947, whereby the Board conferred this power on the General Counsel. No explanation was ever given why it was thought that this was "Confidential" or why it had not been brought to the attention of litigants before the Board. The court overruled the contentions of the I. T. U. and the matter proceeded to hearing on the merits.

The obvious purpose of the proceeding was to break the strike of Chicago Local No. 16, yet the intervention of that local in the case was denied. It was the arrogant contention of the General Counsel that the I. T. U. might not even offer proof refuting his unproved allegations. After hearing, on March 27, 1948, the Court issued a sweeping injunction, in almost exactly the form asked by

the General Counsel, and made findings of fact almost exactly those asked by the General Counsel (See 21 LRRM 2375, 2553). The I. T. U. was enjoined from refusing to bargain collectively, from asking for "Conditions of Employment," from using Form P6A, from asking that agreements be cancelled on 60 days' notice, from seeking to cause employers to discriminate against nonunion men, from attempting to maintain closed-shop conditions, or from supporting strikes for any of those purposes. The only matters not enjoined were those which the General Counsel himself had dropped from the case for want of proof.

In view of the injunction, conferences were arranged with attorneys for the General Counsel and the Court concerning the method of compliance with the decree. A program was agreed upon, by which the I. T. U. agreed to drop the demands found by the Court to be illegal and not to support strikes for such demands. The I. T. U. announced the form of agreement which it would seek, and an understanding was reached in the presence of the Court that any allegations of contempt of the decree would be informally discussed between counsel before any contempt action was brought. The Chicago Local withdrew the demands found to be illegal and presented the type of agreement which had been approved. The publishers rejected the offer, as they had every other offer made by the Union, thereby effectively giving the lie to the publishers' claim that the strike was for an "illegal" contract. The strike continued.

Since the Court denied a stay of the injunction pending appeal, the I. T. U. was faced with the problem whether to appeal an order which they strongly felt to be erroneous. The injunction was "temporary," valid only until the NLRB decided the case. It seemed probable that the NLRB would decide the case before the Circuit Court of Appeals could act on the appeal, in which event the injunction would dissolve, the appeal would be moot, and the costs of the appeal would be for nothing. Relying on reasonable expedition by the NLRB, therefore, the appeal was dropped. The sequel shows that this reliance was entirely misplaced; even so, it is evident that under Section 10 (j) one man can enjoin any trade union if he can assert a "reasonable belief" that the law has been violated, and that for all practical purposes there is no appeal from this injunction once it issues.

#### THE P. I. A. CASES

Six proceedings, some of them simultaneous, were hardly enough by way of harassment of the I. T. U. The employers in the newspaper industry had their hearings and their injunction action, but the commercial employers, except at Baltimore, had not yet sufficiently experienced Mr. Denham's solicitude. On Jan. 21, 1948, yet another complaint issued, again containing identical allegations and relying on the same evidence. This time complaints of the commercial employers in New York, Philadelphia, Newark, Chicago, Detroit, and Pittsburgh, were consolidated for hearing, and and a junker parabeling that in the A. N. P. A. case was proposed, this time on behalf of the Printing Industry of America. In the middle of February the I. T. U. and its locals offered to be bound in the P. I. A. case by any one, or any combination that the General Counsel might select, of the cases which had been litigated. This he refused. Thereupon, on Feb. 24, 1948, the I. T. U. counsel addressed a letter to the Board and the Trial Examiner calling attention to the facts and withdrawal from the P. I. A. case. It is notable that at no time did the members of the NLRB take any slightest step (though through their control over the Trial Examiners they had the clear power to do so) to abate or diminish this campaign of vexatious litigation. The hearings were held, but the I. T. U. and its locals were not there.

Nevertheless, on May 26, the Trial Examiner issued his Intermediate Report. One sentence of that report deserves quotation (Report, p. 60): "The insistence by I. T. U. \* \* \* that the employers surrender \* \* \* their right to bargain with respect to \* \* \* J. T. U. laws, their right to hire and fire whoever (sic) they please, their right to assign work to any employee they deem competent, and the right to accept business from whomever they please \* \* \* cannot be considered \* \* \* bona fide collective bargaining." In short, his conclusion was that under Taft-Hartley a union may not bargain concerning union security, jurisdiction, or struck or substandard work (three essential points of trade unionism), but must bargain with respect to the rules formulated by the democratic action of its members. He concluded, therefore, that not only are strikes for these objectives forbidden, but that *collective bargaining* about them is also illegal under Taft-Hartley (except where the employers desire it, as



in the case of union laws). Can it possibly be doubted, in view of such a ruling, that the objective of Taft-Hartley and of at least one Trial Examiner (Howard Meyers) of the NLRB is the extinction of the trade union movement?

#### SUMMARY OF THE REPORTS

An analysis of the complaints issued, and intermediate reports written, shows that there were 22 important issues involved in these cases. Five intermediate reports have been issued, and on 17 issues of these 22 the Trial Examiners, who heard substantially the same evidence, have disagreed. Most of these issues are basic in understanding the Taft-Hartley Act, and are of enduring importance to the labor movement; the area of disagreement indicates more clearly than a reading of the Act itself its basic confusions, uncertainties, and contradictions. The issues on which the Examiners disagreed involve such matters as whether the demand for a contract clause may cause employers to discriminate, whether a union can coerce its locals or its members by enforcing the rules of the union, whether a demand that foremen by union members is valid, whether a rule requiring resetting of type is lawful, whether a union may protect its jurisdiction through collective bargaining, whether a demand for a struck-work clause in an agreement is valid, whether a union may demand that a certain degree of competence shall be shown before an applicant is hired, whether a union may supervise apprentice training, and the like. The practical effect of these confusions and uncertainties has been to bring collective bargaining in this industry (and in others) to a halt. Instead of discussing terms and conditions of work, the parties have been forced to engage in interminable legalistic discussions.

The most recent ridiculous illustration has been the refusal of a large Louisville, Ky., employer to negotiate further until he could have a Washington, D. C., attorney, as well as a local attorney, represent him. Obviously a small union cannot hope to hire attorneys of equal prominence and feels unequal to the occasion.

Ten months have now elapsed since the first of these cases was transferred to the Board. There has been no oral argument of them, and no decision in any case. Indeed, in the P. I. A. case the Board refused to decide whether to reopen the case at the request of the I. T. U. to show that agreements had been reached with employers at Chicago, Newark, and Philadelphia, as a defense to a charge of a refusal to bargain collectively. Instead, on Nov. 8, 1948, it "reserved ruling" and now appears to be uncertain whether the reaching of an agreement is some evidence that there has been bargaining in good faith. Instead of expedition in deciding these vital issues, there has been stalling and an obvious and deliberate delay in coming to grips with the cases. Under the rules of the Board itself, the A. N. P. A. case, in which an injunction is outstanding, is entitled to a "priority"—and still there has been no argument of the matter.

#### THE CONTEMPT CASE

The Chicago publishers had supposed that the original injunction action would be sufficient to break the strike of Local No. 16; when that effort failed, they nevertheless continued their efforts to use Denham and his powers to serve their purposes. How they finally achieved that objective is best described in the article by Mr. Henry Kaiser, attorney for the I. T. U., which appeared in the October issue of *The Typographical Journal* and the "American Federationist." Once the "heat" had been put on by Senator Taft, Denham moved in with contempt action. On Aug. 15, 1948, a petition alleging contempt of the decree was filed. Its purpose was not concealed; the prayer for relief asked that the I. T. U. be required to "cancel, discontinue, and withhold the payment of strike benefits or other monies to Local No. 16 (Chicago) or its members in support of said strike."

The complaint was based on the ground that the I. T. U., by seeking "competency" clauses whereby applicants for jobs were required to demonstrate their competency before being eligible for hire, were "causing employers to discriminate" in violation of Taft-Hartley and the injunction; that by asking that union foremen be employed it was seeking to cause discrimination; and that certain "joint apprentice committee" clauses violated the Act because they did not provide for the appointment of a neutral tie-breaker in the event of a disagreement between the parties. The first of these matters had not been in issue in the injunction cases; the second had been expressly withdrawn in the injunc-

tion case by the General Counsel; and no previous question concerning a "tie-breaker" had been raised.

Admittedly, the General Counsel knew that these clauses were being proposed by the I. T. U. in early April, 1947; he had expressly agreed to raise any such matters informally with the I. T. U. before a contempt action was instituted. Yet for six months he sat idly by while these clauses were agreed to by the parties in collective contracts of great importance, and not until a few days before the complaint was filed was any question raised with the I. T. U. *No investigation of the facts in possession of the I. T. U. was ever made before this complaint was filed.* Ten days before the contempt action was instituted, the Trial Examiner in the A. N. P. A. case had issued his intermediate report, *and found the identical conduct covered by the contempt action to be lawful.* Having lost before the Trial Examiner, Denham therefore had another go at the same issues through a contempt action.

On Oct. 14, 1948, Judge Swygert issued his findings in the contempt case. He found that certain "competency" clauses were unlawful, but that others used by the I. T. U. were lawful; he approved the union foreman clauses; and he ordered that a tie-breaker clause should be included in the apprentice clauses. He expressly found the Chicago strike to be not unlawful, and refused to cut off strike benefits. The strike continues.

#### SUMMARY

This record demonstrates that the Taft-Hartley Act has been administered in a partisan and proemployer spirit. It shows that the NLRB has stood supinely by without lifting a finger to check the deliberate campaign of intimidation waged by its General Counsel, and that its procedures are so stalled and confused that they becloud issues rather than deciding them. Twice a Federal District Judge has decided cases, during a period when the NLRB has decided none.

It would be erroneous to conclude that a mere change of personnel or procedures would remedy these problems, for the issues go much deeper. Basic to an understanding of them is the economic fact, as Justice Stone pointed out in *Aper Hosiery Co. v. Leader*, 310 U. S. 469 (1940) that "an elimination of price competition based on differences in labor standards is the objective of any national labor organization." The purpose of any trade union is to raise wages and working standards by agreement among workers that they will cooperate to that end rather than compete with each other to see which will work for the lowest wages. And to make that compact effective, certain goals must be accomplished.

First, workers must agree among themselves upon the conditions under which they will sell their labor. This compact is accomplished in the I. T. U. by the "laws" of the union. In local unions each member has a direct vote on the adoption of a law; the laws of the International are adopted either by freely chosen representatives of the local unions, or by the referendum vote of all members. Apart from specific laws alleged to violate the Taft-Hartley Act, the entire system of union rules or laws has been thrown into doubt by the Taft-Hartley Act requirement that unions "bargain collectively." The employers and General Counsel Denham have consistently maintained that Taft-Hartley requires each of these rules to be renegotiated in each bargaining meeting with employers. Clearly, the compact between union members ceases to exist if it must be bargained away on the demand of any employer.

Second, trade-unions must eliminate the competition from nonunion men working in the same craft, whose unwillingness to accept the rules binding the majority is a constant threat to the union standards. If the employer may, without protest, hire nonunion men, he has the effective power to replace union workers with nonunion men and thus to deprive them of their jobs and their union. There are strong incentives to do just that, since normally nonunion men are willing to work for lower wages and standards than union members. The closed shop agreement is the employer's declaration that he does not intend to undermine the union or its standards by hiring nonunion men. Since membership in the I. T. U. is entirely voluntary—and is open to all printers who have demonstrated their competence at their craft—the closed shop agreement does not compel anyone to join the union; there always have been, and are now, many printers who are not I. T. U. members.

Third, every trade-union is faced with the competition of nonunion or underpaid workers in the same enterprise. For example, "varityping" is a new process in the printing trades. It is cumbersome, wasteful, and uneconomic, as is demonstrated by the fact that it has been used solely as a strikebreaking device. But

when operated by workers earning wages well below the union scale, it may approach economic competition with sounder methods, solely as the result of wage cutting. To control such competing processes is the problem of union "jurisdiction"; hence the I. T. U. laws have long provided that "all composing-room work or any machinery or process appertaining to printing and the preparations therefore belongs to and is under the jurisdiction of the I. T. U." (General Laws, Art. III, Sec. 12).

Fourth, it must be recalled that few unions succeed in organizing all of a trade. The I. T. U., and the fair employers under agreements with it, have always faced the competition of nonunion employers whose lower wage costs give them a competitive advantage. While this form of wage-cutting competition can perhaps never be eliminated, it can be controlled in a measure by a union rule, such as that of the I. T. U., stating that "subordinate unions at all times have the right to define as struck work composition executed wholly or in part by nonmembers, and composition or other work coming from or destined for printing concerns declared by the union to be unfair, after which union members may refuse to handle the work classified as struck work" (General Laws, Art. III, Sec. 5).

This union law has two important consequences: First, it assures that union men will not act as strikebreakers against their fellow union members by doing the work normally performed by strikers; and, second, it means that union men will not facilitate the free entry into the market of sweatshop goods by processing materials coming from wage-cutting shops.

We have shown how the Taft-Hartley Act and the interpretations of it by the General Counsel of the NLRB have threatened each of these basic trade-union objectives. The closed-shop agreement is abolished, and it is argued that the Act means that union men may be compelled to work with competing nonunion men. Doubt is cast on a union's right to strike to protect its jurisdiction or against the employer's assignment of work to a "particular trade, craft, or class." The right of union men to refuse to work on "struck" or substandard goods is clearly made illegal, while, at the same time, the right of employers to assist each other in an economic dispute is left completely untouched. Any one of these Taft-Hartley prohibitions is sufficient to destroy a union; their cumulative impact is utterly disastrous.

Until Taft-Hartley was passed, there had been a large measure of peace in the printing industry; the last major strike had been in 1922. Since the Act was passed, the I. T. U. has expended over *eleven million dollars* of hard-earned dues in strike benefits and other forms of activity to protect its existence and that of its local unions. Much of its time and attention has had to be focused, not on improving conditions in the trade but on a defensive battle in aid of trade-unionism itself.

The experience of the I. T. U. demonstrates that the modern, streamlined Taft-Hartley injunction is even more vicious than its predecessors issued before passage of the Norris-LaGuardia Act of 1932. These injunctions are granted employers substantially without cost, since the expense of obtaining them is borne by the NLRB. Indeed, the I. T. U. was ordered to pay back to the NLRB nearly five thousand dollars to cover the cost of the action against it, including the salaries of government agents (paid from public funds) who "investigated" the case without once approaching the I. T. U. The injunction against the I. T. U. was couched in the usual vague and sweeping language; as a consequence, collective bargaining in the industry has not been with employers, but with government agents speaking for employers, and has not been concerned with wages and hours, but with the meaning of a judicial document. Meantime, the employers have been left scot free of any restraints; while it is a contempt of court for the I. T. U. to propose the use of "Conditions of Employment" without a written contract, employers have been free to, and have, used them with impunity.

The consequence has been a notorious interference by the NLRB and the courts in the internal affairs of the union. The enforcement of union laws, democratically adopted by the union membership, is braided as "restraint or coercion" by the International Union against its locals; but any failure to secure the most rigid adherence to the terms of the injunction by local unions is automatically a contempt of court. Some thirty-odd laws of the I. T. U. have been attacked as "illegal" under Taft-Hartley; in such confusion, no union member can know his rights or duties. Yet the price of not knowing is a possible contempt action.

Nor is this the whole story. On countless occasions the prohibitions of Taft-Hartley have prevented local unions from taking necessary steps to win economic

battles. These incidents, since they have not resulted in litigation, have received scant attention. For example, when the printers of the Chicago newspapers struck in November 1947, the newspaper publishers sent their advertisements for setting to commercial printing firms in Chicago, whose employes were members of the same local union that was conducting the newspaper strike. Had the union refused to handle such struck goods, all the penalties of the Taft-Hartley Act could immediately have been invoked. The union was therefore forced to endure a situation in which some members of a local union worked as strike-breakers against others. Similar instances could be multiplied throughout the country.

The tortuous and contradictory language of the Act has all but stymied collective bargaining. Normally, local unions of the I. T. U. have been parties to a total of 1,200 contracts; at present the figure is only slightly more than 100 because almost every proposal made by the I. T. U. since the Act was passed has been speciously branded, by some employers and their attorneys, as "illegal." A complex legal ingenuity has been used to find illegality in proposals which have been a commonplace in collective agreements for half a century. These legalistic disputes have caused delay, bred strife, and caused strikes; they have deprived local unions of improvements in conditions which, but for Taft-Hartley, they would clearly have obtained.

#### CONCLUSIONS

From this experience, the I. T. U. has drawn certain conclusions.

1. Most emphatically, Taft-Hartley should be repealed and the Wagner Act reenacted until appropriate substitute legislation can be devised. The personnel administering Federal labor policy should be required to have at least an elementary understanding of the labor movement and of the high price of bureaucratic delays.

2. The role of the Federal Government in labor relations should be reduced to a bare minimum, and any rules adopted should be applicable to all industry affecting interstate commerce. No provisions should be retained which impinge on the freedom of either employers or unions in the collective bargaining process itself.

3. The same free right of competition which is recognized for employers should be recognized for unions. Specifically, the right of unions to seek new members where and when they will, their right to seek allies by peaceable means in an economic dispute, their right to adopt laws governing the conditions under which their members will seek employment, and their right to enter into such agreements as may be desirable to the contracting parties, should in no respect be infringed—any more than the corresponding rights of employers should be.

4. Legislation should be brief, thought-through, and clear. Workers cannot expect to govern their conduct, or know their rights, under legislation which is complex and confused.

5. There cannot be free collective bargaining where any restraints on the right to strike exist. The labor injunction, in every form, must go. Such rights or remedies as are available to trade unions and workers should not be restricted by any limiting conditions on their enjoyment.

The Wagner Act recognized labor unions to be absolutely essential to our economy. It recognized employers were interfering to prevent unions from forming or functioning. It recognized the need for protecting by law the right of employes to organize and function as labor unions.

It declared the policy of the United States to encourage collective bargaining and to protect the right to do so for the purpose of negotiating terms and conditions of employment.

It did *not* propose to stop strikes because the right to strike is necessary to preserve freedom and to avoid totalitarianism of any kind whether fascism, nazism or communism. The right to strike is a part and legal necessity of the right to organize and bargain collectively.

There is no constitutional authority in our Government to force employes, individually or collectively, to render service to any employer. Our constitution *does* provide clearly that there shall be no involuntary servitude except as a punishment for crime. To protect only the individual (as Taft-Hartley does) in the right to quit work under any circumstances is to deny the necessity for organization of workers.

The I. T. U. has paid a heavy price to survive, and to uphold the fundamentals of trade unionism. That investment will not be lost if sufficient legislators,

judges, labor administrators, trade unionists and members of the public generally absorb the conclusions to be drawn from the harrowing, and we trust, never-to-be-repeated, experience which has been herein summarized. While the briefs and transcripts of hearings gather dust in government archives, the damages inflicted will not be forgotten.

THE INTERNATIONAL TYPOGRAPHICAL UNION.  
 WOODRUFF RANDOLPH, *President*.  
 LARRY TAYLOR, *Vice President*.  
 ELMER BROWN, *Vice President*.  
 JOE BAILEY, *Vice President*.  
 DON HURD, *Secretary-Treasurer*.

## WHY WAS THE INTERNATIONAL TYPOGRAPHICAL UNION HELD IN CONTEMPT OF COURT?

### A CASE FOR REPEAL OF THE TAFT-HARTLEY ACT

A FACTUAL REPORT SHOWING THE ABUSES UNDER TAFT-HARTLEY ACT AS IT WAS  
APPLIED TO THE INTERNATIONAL TYPOGRAPHICAL UNION

(Issued by the International Typographical Union, February 3, 1949)

On October 14, 1948, Judge Swygert, sitting in the United States Court for the Southern District of Indiana, found the International Typographical Union and its officers to be in contempt of court for violating an injunction issued under the Taft-Hartley Act. Normally, contempt of court is a serious charge, reserved for conduct which is felt to be seriously detrimental to the public welfare. What crime had the I. T. U. and its officers committed? Just this—and nothing more. They had proposed certain clauses for inclusion in contracts in the course of collective bargaining with employers, which clauses some employers had rejected and others had accepted. No violence, no fraud, no misrepresentation was claimed.

Under the Taft-Hartley Act, a group of honest, law-abiding trade-unionists can be, and were, haled before the Court and subjected to the possibility of heavy fines or even imprisonment for merely making certain proposals in the course of collective bargaining. The proceeding was instituted, not by employers, but by the General Counsel of the National Labor Relations Board—who thereby again exercised the dangerous powers given him under the Taft-Hartley Act even to determine what proposals a union might make in the course of collective bargaining.

### BACKGROUND

The origins of this contempt case lie far back in American trade-union history. Very early in the 1800's, the budding local printing unions—called "Typographical Societies"—learned that, in order to improve the living standards of their members it was necessary to eliminate, so far as possible, the competition of the sweat-shop employer, who survived in the trade, despite his inefficiency, by paying wages below those paid by fair employers to union members. The simplest way of not aiding such an employer in his wage-cutting tactics was an agreement among union members not to work for him—called "ratting" in the printing trades—and to work only for fair employers. As a consequence of this policy, the printing industry has been traditionally divided between nonunion shops, "closed" to union members, and "union" shops wherein the employer agreed to the standards, fixed by the democratic action of the members of the union, as the conditions under which they would sell their labor.

When, about 1886, the collective agreement made its appearance, the fair employers inserted in their contracts a clause agreeing to hire only members of the union. In the course of time, by a curious inversion, the term "closed shop" which once meant that union men would not work there, came to be applied to the agreement that only union men would be taken on. Such undertakings were valuable from the employer's point of view. Since most skilled men in the industry have been, and are, union members, it meant that the employer had a readily available pool of skilled men from which to man his enterprise. Union members have traditionally, and for clear reasons, had an antipathy to working with competing nonunion men who were ready to undermine the standards of

the craft; such an agreement assured the employer of harmony in his composing room. By assisting in the elimination of sweatshop competition, it assured the employer that he might operate his business with a greater security than was otherwise possible.

From the point of view of the union and its members, the benefits of the closed-shop agreement are equally self-evident. It provides a pool of jobs at fair wages and conditions for union members. It means job security, for the pressure of semiskilled competitors, willing to work at lower wages, is eliminated. It means a strong and stable union, able to bargain on an equal basis with employers. The agreement of the employer not to hire outside the ranks of the union gives an assurance that he does not intend to undermine the union in the shop or to undercut its standards. It facilitates the mobility of printers, for union conditions are the same in New York as in San Francisco and the union member going into a new situation knows exactly what is expected of him. And, under these agreements, the practice of hiring in order of seniority, known as "priority" in the trade, has been in effect for a great many years for the protection of the employees and the benefit of the industry.

The strength and stability of the locals of the International Typographical Union have been matched by strong and stable employer associations with which collective bargaining has been locally conducted. Under these arrangements, there were few strikes—the last major one was in 1922. Notable strides have been made in employer-union cooperation: for example, in New York City I. T. U. Local No. 6 and the employer associations jointly financed for many years a school for the training of apprentices in the trade. The I. T. U., through its Bureau of Education, has undertaken to supervise the training of most apprentices at the trade in localities where facilities such as those in New York could not be provided. Printing is a skilled craft—and for more than a century the I. T. U. has dedicated itself to assuring the highest possible standards of competence at the trade.

No one was ever excluded from the industry. Those who completed the course of lessons of the I. T. U., and passed an examination to demonstrate their competency, were automatically eligible to union membership and to work at the trade: likewise, any competent printer could be admitted to local union membership upon proving himself qualified. Those in the industry who did not desire to join a union or could not demonstrate the requisite skill, were free to work in the nonunion shops. The I. T. U. includes in its membership persons of every race, creed, and color and has never been, in any sense, a "closed union."

#### THE TAFT-HARTLEY ACT

Into this complex web of delicate relationships, laboriously constructed over the years by persons in close touch with the industry, the Taft-Hartley Act dropped like a meat ax. It clearly made illegal the agreement by which the employer undertook to hire only union men. It thereby endangered the jobs of all union members, for it was insisted that the Act gave the employer the unlimited right to hire whom he would and thereby to replace his union workers with non-union lower-paid help. Under the Act, the entire system of "priorities" was jeopardized. Unless jobs were available for its members, the I. T. U. could have no interest in the training of apprentices, or in assuring the competence of its members at the trade. And, by the same token, if nonunion men and union men were to be equally entitled to jobs irrespective of their training, no applicant or apprentice would have an interest in meeting the competency tests required of union members. This one prohibition of the Taft-Hartley Act—to say nothing of another score of equally unwise provisions—threatened the free displacement of union members from their jobs, the hiring in their stead of those most willing to work for wages and standards below those gained by the I. T. U., the destruction of the apprentice training system, the dilution of craft standards, and the introduction of a chaotic and haphazard wage structure with a consequent throat-cutting competition based solely on wage reductions.

It is unthinkable that any group of trade unionists, conscious of its responsibilities, should have taken no steps to meet these challenges. True, the Taft-Hartley Act legalized the so-called union-shop agreement by which a newly hired employe might be compelled, thirty days after hiring, to join a union. But this could not be an answer for the I. T. U. First, the I. T. U. has steadfastly opposed the concept of compulsory unionism: traditionally, printers have joined the I. T. U. because they freely believed in the principles of trade-unionism and because the I. T. U. voluntarily desired to have them as members. The so-called union shop

meant that the employer would determine who were to be I. T. U. members. Second, the asserted freedom of the employer to hire as he liked opened the way for introducing into composing rooms notorious anti-unionists, or incompetents, or persons willing to undercut standards. The I. T. U. emphatically rejected this philosophy of the Taft-Hartley law.

The attitude of the industry concerning the closed shop was summed up Mr. John O'Keefe, Secretary of the Chicago Newspaper Publishers' Association, testifying on December 22, 1947, before a subcommittee of the Committee on Education and Labor of the House of Representatives inquiring into the causes of the Chicago newspaper strike, as follows:

"Congressman KERSTEN. Up until now and for a great many years past you had a closed-shop agreement didn't you?

"Mr. O'KEEFE. Yes, we did.

"Mr. KERSTEN. How did that feature work out in your previous contracts, so far as your closed-shop provisions of the contract was concerned?

"Mr. O'KEEFE. We never even discussed it. It had been there for years and it has remained there.

"Mr. KERSTEN. Did you have any real difficulty with it, so far as your union (the I. T. U.) is concerned?

"Mr. O'KEEFE. We did not \* \* \* as a matter of fact most of the Chicago publishers, or all of the Chicago publishers, I would say, would prefer to continue a closed shop if it were legal.

"Mr. KERSTEN. The reason for that is that this particular union has been a long-term institution that has a certain amount of tradition behind it, a considerable amount, and if it is a responsible union, and under those conditions a closed shop has worked out so far as the Chicago publishers are concerned, is that right?

"Mr. O'KEEFE. Yes, it has."

Since these arrangements had been acceptable over many decades, the 1947 Convention of the I. T. U. adopted a "Collective Bargaining Policy," designed to perpetuate them without violating the law. While the closed-shop *agreement* was illegal, there appeared to be nothing in the law which outlawed closed-shop *conditions*. Despite a concerted barrage of misrepresentation to the contrary, *the I. T. U. has not asked for a closed-shop agreement since Taft-Hartley became law*. It did, however, conceive that its members retained Constitutional rights to refuse to work with competing nonunion men. The Convention, therefore, determined to waive the collective-bargaining agreement so far as possible and to rely on the economic strength of the union to prevent employer efforts to destroy it by the unlimited hiring of nonunion men.

Thereupon howls of anguish arose from employer ranks; some employers who, a few months before, had been unwilling to enter into written agreements with the I. T. U., now professed to find in this policy dangers which, in fact, were non-existent. Most fair employers were willing to continue relations on a basis of a continuing discussion and settlement of differences without a formal collective agreement, and thereby indicated they had no intention of taking advantage of the provisions of the Taft-Hartley Act which allowed damage suits for breach of contract where a union was forced to take action to defend itself. But attacks upon this policy by the General Counsel of the Senate Labor Committee and the issuance of a complaint in September 1947 challenging its legality, at Baltimore, forced the I. T. U. to reexamine its position.

The result was the offer by the I. T. U. of a collective agreement known as Form P6A. As Trial Examiner Leff of the NLRB later found, "It is clear from the record as a whole that P6A was not designed as a legally enforceable closed-shop contract, was not represented as such, and was not so understood." While employer attorneys exhausted their ingenuity in digging up grounds on which this agreement might be declared illegal, the heaviest attacks were made upon a clause allowing either party to cancel the agreement upon 60 days' notice (though such a clause had been standard in many collective agreements) and a clause stating, in substance, that since the I. T. U. could not compel its members to work with nonunion men, their refusal to do so should not be considered a breach of the agreement. Various NLRB Trial Examiners subsequently found the 60-day cancellation clause unlawful on the ground that it "restrained and coerced" employers or caused them to "discriminate" against nonunion men; they disagreed concerning the legality of the second clause. In considering the claim that the I. T. U. was seeking to cause "discrimination," it is significant that at no time since the Act was passed was a single person produced who would even suggest that he had been discriminated against.

## THE INJUNCTION

While these matters were proceeding in hearings throughout the country before various NLRB Trial Examiners, General Counsel Denham sought an injunction against the I. T. U. On March 27, 1948, Federal Judge Swygert issued an injunction which, in brief, enjoined the I. T. U. and its officials in sweeping terms from refusing to "bargain collectively," from using Form P6A, clauses permitting cancellation of an agreement upon 60 days' notice, seeking to "cause employers to discriminate," or from supporting strikes for any of these purposes. There was no claim, no evidence, and no finding that the I. T. U. or any member had engaged in any violence, fraud, misrepresentation, or other improper activity; the injunction was based *solely* upon proposals of a kind designed to protect its existence, made by the I. T. U. and its locals in collective bargaining.

As a result of the injunction, an agreement was reached between the I. T. U. and the NLRB General Counsel concerning the method of complying with the decree. Part of this agreement consisted of instructions to be sent to local unions.

The restraints embodied in the injunction were bitter ones to swallow. Every trade union will seek to protect the jobs of its members, and advance their job opportunities. To be told that the carrying out of this normal ambition represented a "discrimination" against nonunion men was like telling a Ford automobile salesman that he was "discriminating" against General Motors products and ordering him to plug the lines of both companies equally. Despite the manifest injustice of the law and the injunction from the point of view of the members of the I. T. U., it made every effort to comply with the injunction.

Almost contemporaneously with the issuance of the injunction, the New York commercial printing employers and Local 6 of the I. T. U. had arrived at an agreement submitted by officers of the I. T. U. A clause in that agreement provided that a demonstration of competency at the trade was a prerequisite to employment. All present employees, and members of the I. T. U., were judged automatically competent (in view of the competency requirements for membership in the I. T. U.) and all others were to be given an examination similar to that required for I. T. U. membership. That clause was distributed to all I. T. U. locals as meeting the requirements of the injunction. It came to the attention of the General Counsel of the NLRB in early April 1948; thereafter it was accepted, with no objection from him, as the basis for contracts with employers in Detroit, Chicago, Philadelphia, Newark, and other cities.

*Senator Taft intervenes*

Since November 24, 1947, Local 16 of the I. T. U. has been on strike against the Chicago newspaper publishers, who, following the advice given by the American Newspaper Publishers' Association, had refused to discuss wages, hours, or other working conditions with the union unless and until Local 16 agreed to the publishers' definition of a "legal" contract. By complying with the injunction, the I. T. U. had been able to continue its support of that strike, but the Chicago publishers by no means relinquished their efforts to induce General Counsel Denham of the NLRB to do some strikebreaking for them.

So it came about that a significant meeting was held in Senator Taft's office on July 28, 1948. Present were representatives of the Chicago publishers, Senator Taft, and NLRB attorneys—needless to say that the I. T. U. was not represented. Senator Taft appears to have made it clear that he expected the NLRB attorneys to initiate contempt proceedings against the I. T. U. President Truman, on complaint of the I. T. U., caused an investigation of this meeting to be made and accurately characterized it as an effort of Senator Taft's to "put the heat on" the Executive branch of the government.

But General Counsel Denham obediently followed instructions. On August 15, 1948, a Trial Examiner of the Board issued his intermediate report finding that the competency clauses circulated by the I. T. U. in early April, 1948, were not illegal. These clauses had been approved by employer attorneys, and had been embodied in important contracts in the industry. No complaint concerning them had been made to the I. T. U. by the NLRB General Counsel, who had knowledge of these clauses when they were circulated in April, 1948, despite an understanding reached after the injunction was issued that no contempt action would be instituted without informal efforts to adjust the matter between the NLRB and the I. T. U. Despite the claim that they had been "investigated," no effort was made by the NLRB to obtain from the I. T. U. any information concerning the manner in which such clauses had operated.



*The contempt case*

On August 25, 1948, carrying out Senator Taft's wishes, a complaint was filed alleging that the I. T. U. and its officers were in contempt of the injunction. The grounds were the following: (1) The demand for competency clauses which, it was claimed, favored I. T. U. members. These clauses had not been in issue in the injunction proceeding and had been found by a Trial Examiner of the NLRB, ten days before, to be lawful. It was not claimed that any specific person had been discriminated against and the sole claim was that they were "illegal" on their face—a matter as susceptible of ascertainment in early April, 1948, as in late August. (2) The demand for a clause that foremen be union members. This issue had been expressly withdrawn from the injunction proceeding by General Counsel Denham; it had been expressly agreed after the injunction issued that demands for such clauses were lawful. (3) The failure to include a provision for a "tie-breaker" in a clause providing for a joint employer-union committee to supervise the training of apprentices. This had not been in issue in the injunction, or any other, proceeding. All three of these clauses had been freely rejected by employers who were not willing to agree to them, though many were.

Thus it came about that, for the first time in American history, a group of responsible union officials were charged with contempt of court for *proposing* certain clauses in collective bargaining meetings. It was not disputed, and is readily apparent, that each of these proposals was designed to advance the legitimate interests of the union and its members: they represented no more than an effort to continue, so far as possible within the injunction, practices found to be mutually beneficial by both employers and the union. Important areas of the industry had agreed both with the legality and desirability of these proposals. Yet, once again, the I. T. U. found itself bargaining, not with the employers in the industry, but with the NLRB General Counsel and the courts.

But the real bite of the case was in the NLRB's prayer for relief; it was demanded that the I. T. U. be required to "cancel, discontinue, and withhold the payment of strike benefits or other monies to Local No. 16 (the Chicago local) or its members in support of said strike." In early April the General Counsel had known of the proposals then being made by the I. T. U.; no objection to them was voiced. On July 28, Senator Taft at the instigation of the Chicago newspaper publishers had urged action against the I. T. U.—obviously in the hope of breaking the Chicago strike. On August 15, the I. T. U. proposals were found to be lawful by a Trial Examiner of the NLRB. On August 25, 1948, the proceeding was instituted. From this sequence of events, it is apparent that the allegations of the contempt petition were afterthoughts, resurrected only to carry out the desires of the Chicago publishers and Senator Taft, and that the sole aim of the proceeding was to break the strike, and force the Chicago printers—free citizens—to work for such wages, during such hours, and under such conditions as the Chicago publishers would unilaterally impose.

On October 14, 1948, the decision in the contempt action was announced. The competency clauses drawn from the New York commercial employers' agreement were found to be "discriminatory." But certain variants on that agreement which had been developed, principally in an agreement with the New York newspaper publishers, were found to be "not unlawful." Clauses providing that foremen were to be union members were approved, but it was found that the I. T. U. was required to include a provision for a "tie-breaker" in clauses setting up joint employer-union committees to supervise the selection and training of apprentices. The effort of the Chicago newspaper publishers, Senator Taft, and General Counsel Denham to cut off strike benefits at Chicago and thereby break that strike failed. But, because the I. T. U. and its officers had been found in contempt, they were required to pay the costs incurred by the NLRB in "investigating" the case (without once approaching the I. T. U.) and the costs of litigating it on behalf of the Chicago publishers.

Thus, the I. T. U. was required out of its funds to finance an effort by government attorneys, paid out of public funds, to break one of its strikes, including the salaries paid the attorneys for that effort.

The I. T. U. felt that it had good grounds to appeal both of these lower court decisions. Yet any injunction issued under Section 10 (j) is "temporary," and falls when the NLRB decides the case out of which the injunction arose. Since the Court twice refused stays of its orders pending appeal, the I. T. U. was forced to comply with those orders during the period while the appeal was pending. If, during the time the matter was pending on appeal, the NLRB decided the

case, the whole case would become "moot," the injunction and the appeal would disappear, and the I. T. U. would have incurred heavy costs without ever obtaining a decision. There is no practical appeal from injunctions and contempt orders under Section 10 (j).

### *Conclusions*

What rational bystander could suppose that in the year 1948 reputable trade-union leaders might be held in contempt of court, and punished, for failing to include a provision for a tie-breaker in a collective-bargaining proposal dealing with training of apprentices? Where is the American citizen who can say to himself that the making of such a proposal warrants setting in motion the ponderous machinery of the NLRB and the Federal judiciary? Who will defend the proposition that the Federal government should dictate to unions—or employers—the exact form of the clauses which they shall propose in their dealings with each other? What has become of the phrase "free collective bargaining" when proposals, whether satisfactory to employers or not, must be cleared with the General Counsel of the NLRB and the Federal courts under the whiplash of contempt citations before they can be made? Yet this is the point to which the American trade-union movement, under the combined prodding of the Taft-Hartley Act, some employers, an antilabor Senator and a biased administration of the Act, as we have demonstrated, has been driven.

To this pushing around the American labor movement, sparked by the experience of the I. T. U., gave its thunderous answer on November 2. The issues are grave, and admit of no temporizing or equivocation. The slate must be wiped clean! If the trade-union movement—and employers—are to remain free, they cannot admit that the Federal government shall dictate to the parties how the competency of new employes shall be determined or how apprentices are to be trained. The existence of a few employers, like the Chicago publishers, who are unwilling to handle their economic problems without the support of an antilabor Congress and a proemployer administration of a hostile law is no justification for throwing the shackles about those trade unions and those employers who are sufficiently strong and independent to handle all their own problems in a responsible and democratic fashion. If freedom is to return to the American labor scene, *all* of Taft-Hartley must go.

THE INTERNATIONAL TYPOGRAPHICAL UNION.  
 WOODRUFF RANDOLPH, *President*.  
 LARRY TAYLOR, *Vice President*.  
 ELMER BROWN, *Vice President*.  
 JOE BAILEY, *Vice President*.  
 DON HURD, *Secretary-Treasurer*.

The CHAIRMAN. Mr. Randolph, before we start with the questioning, are you a party to any litigation now that is in the courts?

Mr. RANDOLPH. We are under an injunction by the Federal Court of the Seventh Circuit, and under a citation for contempt for having violated that injunction.

The CHAIRMAN. Are you personally part of that litigation or is your union?

Mr. RANDOLPH. I am personally, and as officer of the union, under those court restrictions.

The CHAIRMAN. I deem it a duty as chairman of this committee to point out that we do not want to, and I do not want to, allow any question that may in any way prejudice that case or that may have influence upon the feeling of the public in regard to it, and I do not want to proceed if in any way our actions here may in any way hurt the case one way or the other, hurt you as an individual one way or another, or hurt your union one way or another.

I realize that this is not a matter of rights, and am not going to get into conflict on any law, but I do know how things in our Government work and function, and I do not want to be unfair to anyone.

I think we ought to have that understanding among ourselves, and with you; in case some question or type of question that you should not answer or do not wish to answer, please let us know.

We surely do not want to mix up the litigation any worse than it is.

MR. RANDOLPH. Thank you, Mr. Chairman.

I suppose you have noticed that I am buttressed by a couple of good lawyers, and I shall rely on them to at least nudge me to keep me from answering a question that might get me into trouble.

Senator TAFT. They can answer for you, perhaps, without being subject—

MR. RANDOLPH. On the contrary, they are enjoined likewise.

Senator TAFT. Are they? [Laughter.]

The CHAIRMAN. I cannot help but repeat, and I think everybody agrees here—I hope they do, at any rate—that our first duty should be to protect the witnesses.

MR. RANDOLPH. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Neely.

Senator NEELY. Mr. Randolph, you have been an officer of this union for many years; have you not?

MR. RANDOLPH. Yes, sir; for some 20 years.

Senator NEELY. You are at present the president, and have been since 1944, I believe?

MR. RANDOLPH. Yes.

Senator NEELY. Would you please describe the procedure of the union in general, so that the committee may know that you have actually been proceeding along democratic lines?

MR. RANDOLPH. Yes, Senator Neely; I think that such a statement will help materially, and, I believe, in convincing Senator Taft that the ITU is a very fine organization.

Senator TAFT. I have always thought so. I have not been much in touch with them, but I have always heard that.

MR. RANDOLPH. The history of our organization is one that I believe is really the best evidence of the trade-union movement of the country.

It existed in typographical societies almost from the beginning of our country, and some of those societies have had a continuous existence for a great many years.

For instance, this local union in Washington, D. C., has a continuous existence since 1815; and, in 1850, a group of those societies held a convention looking toward the formation of a national body. They had another convention in 1851 for the same purpose, and at the third convention, in 1852, arrived at the basis for a National Typographical Union.

It persisted under that name until 1869 when, upon receiving into the union a group of Canadian societies, Canadian unions, the name was changed to the International Typographical Union.

Basically it has been completely democratic from the beginning. In our offices in Indianapolis you can find the printed proceedings of the conventions beginning with the convention of journeymen printers of 1850 and every action taken by the international union since then, in convention, is found printed and preserved along with the laws of each year since 1850.

With the exception of very few times, the international union has met every year. I recall noting in the proceedings that the president of the international union severely criticized the secretary-treasurer

for calling off a convention during the Civil War. I think we only missed two during that time.

The union has always functioned through a constitution, bylaws, general laws, and convention laws since that time.

The constitution has always been reserved to the members. In other words, any amendment which is to be made to the constitution embodying our basic policies must be referred to a referendum vote. Every question concerning the rates of dues, and the raising of money, has to be voted on in a referendum vote, and it has always been so.

The bylaws have contained the regulations for the internal affairs of the union, the procedure to be followed by the international and local unions, the duties of the officers and so on, and the bylaws have been subject to change by convention action or by referendum vote if desired by the members.

We have more democracy in the typographical union than you have in the Government of the United States or any State, because we can change our laws through the initiative and referendum——

Senator TAFT. When you speak of bylaws, does that cover the so-called international laws? Is that the same, or how are they differentiated?

Mr. RANDOLPH. The international laws is a book composed of the constitution, the bylaws, the general laws, convention laws, the union printers' home laws, resolutions.

Senator TAFT. I mean, how are the international laws passed? What is the procedure?

Mr. RANDOLPH. Convention.

Senator TAFT. If you want a new international law, how do you go about it?

Mr. RANDOLPH. I am just trying to get to that, and if I do not cover it, you remind me, please.

The constitution is only made and amended by referendum vote of the members. The bylaws may be made in a convention or there may be also an amendment to the bylaws by referendum vote through an initiative petition, whereby 150 unions at this time may petition for an election to change any law in the book; any law in the book can be changed by referendum vote of the members on the petition of 150 out of 850 unions.

The general laws contain a series of laws adopted by the members, either in convention or by referendum vote, and from the beginning the officers of the International Typographical Union and of local unions were democratically elected. Until approximately 1898, officers of the international union were elected in conventions.

Since that time they have been elected by referendum vote of all of the members of the union each 2 years.

The local unions elect their officers through a referendum vote of their local members. Local unions may not change their constitution or bylaws until they have first proposed the changes at union meeting, laid them over for 30 days, informed the members of the changes, and then voted on them at a succeeding meeting.

The international conventions are made up of delegates elected by referendum vote of each local union and, therefore, the finest type of democracy is exhibited through the members in referendum vote in electing delegates to a convention, and these delegates do the work

of amending the bylaws and general laws or proposing amendments to the constitution for referendum vote.

They may change the convention laws with a majority of two-thirds. So that the orderly procedure, and the absolute guaranty of protection for every individual member of the organization is evident, and has been from the beginning.

No member may be expelled or suspended by a local union until after due trial in accordance with a very well developed set of rules, and until after the member has had an opportunity to appeal to the executive council of the International Typographical Union.

No verdict of the local union, of course, either reprimand, suspension, or expulsion, may be enforced until after the man charged with the crime or convicted of it has had the opportunity to get a review by the executive council of the International Typographical Union.

Now, the democratic character of our organization, I say, even exceeds the democracy of the country itself.

There is a very close parallel, however, on the relationship of local unions to the international, and the relationship of States to the Nation.

For instance, from the beginning, a local union has had the right to adopt any law it saw fit so long as it did not conflict with the laws of the International Typographical Union; and the laws of the international were made by the delegation of powers from local unions to the international union in convention or by referendum vote, so that when the international union speaks it is speaking as a voice of all of the members of the International Typographical Union.

The international gets its power from the members of the union, as does the governments of the States and the United States gets their powers from the people.

That is a parallel condition, and local unions have put upon themselves, through their own delegates, the laws that are found in the international lawbook, so that the international lawbook is not something that is enforced upon people, but it is a restriction that people lay upon themselves for the purposes of international coordination of unionism.

Now, we have in the general laws, and from the beginning, a series of laws that have to do with the economic conditions of the industry.

As the union developed, and until some time between 1880 to 1886, there was no such thing as collective bargaining. The local unions simply met and formulated their scales of prices, and the conditions under which the members would work.

Any employer that would pay the scale and comply with those conditions could get union printers. Those who did not, did not get union printers. That is all there was to it.

There was no collective bargaining, and employers generally, as of years gone by, especially back in those days, did not even think about bargaining with unions in any way near the sense that they think of it today.

They simply complied with their scales of prices, and rules, if they hired union people. With the development of the linotype machine, around 1885 to 1890, a great deal more printing could be produced. Industry got a spurt of development.

It became desirable to employers—to employers, if you please—to have collective bargaining with the International Typographical Union, and it was to their interest to have a scale of prices stable for a period of time, rather than depend upon the scale of prices which may have been adopted at any time by the local unions in each city.

So, obviously, at their request and obviously also for the benefit of the union, the development of collective bargaining began. But there was no change whatever in the fact that the union rules of conduct in shops, the union conditions that had been laid down in the international lawbook, persisted as a basis of collective bargaining, and has persisted to this day.

I shall deal with that, perhaps, a little bit more later on, but suffice it to say at this moment, to this very day, even though the American Newspaper Publishers Association has since 1916 made several attempts to change that basis, it has not been done. It could not be done without destroying the union because in these general laws we tie down the economic progress that has been made over the years.

The first move for an 11-hour day was made by order of the union that thereafter no union should make a contract or could make one or have a scale of prices, as it was in those days, for a workday exceeding 11 hours, nor at a later time when the union ordered the same action with regard to the 10-hour day, and the 9-hour day, and the 8-hour day.

The CHAIRMAN. Can you date those 10-hour, 9-hour days, Mr. Randolph?

Mr. RANDOLPH. No, I cannot. The 8-hour day was 1906, and beyond that I cannot give you the exact date, but I could get it out of our records.

In other words, as the union—and it was necessary to strike to obtain it—simply stated that on or after a certain day 11 hours or 10 hours would be the workday, and any employer that did not pay for it, for the work under those conditions, got no union printers, the equivalent of a strike, but that action had to be taken each successive step on up to the 8-hour day of 1905 and '06.

It required a strike in every reduction of hours since the organization was founded. So that the general laws adopted by the members—

Senator NEELY. If you had been prohibited by law from striking against the 11-hour day, do you think you ever would have been able to eliminate it?

Mr. RANDOLPH. No. In fact, we could not have gotten rid of any workweek without a strike, as our long history has proven.

Senator NEELY. Do you think that if you had been under the Taft-Hartley Act at that time you could have reduced the length of the 11-hour day?

Mr. RANDOLPH. We would not have lived if we had a Taft-Hartley Act in those days. It took a good quality of pure unionism to exist under circumstances of the days preceding 1880, as perhaps many of you are aware, if you have read the industrial history of this country.

Senator NEELY. I do not believe the members of your organization were abused as they were in some of the other unions.

In the old days in the county in which I live, if a union man came to our city and attempted to make a speech in front of the courthouse

recommending in the most peaceful and proper way that the miners organize, a goon for a coal company would beat him up and put him in jail and keep him there until he would agree to leave the community.

That kind of violence was not used against your members, was it?

Mr. RANDOLPH. No, Senator; and perhaps the reason why is because our folks from the beginning were skilled in a way that could not be replaced immediately, and if they beat them up, certainly they would have to take time to recuperate during which no paper would be gotten out. [Laughter.]

In fact, I have seen some pictures of some of the old-time printers of 1880 and before, and I noticed they have heavy gold chains across their vests, and there was one with a swallow-tail coat and a plug hat, and all with big mustaches and they looked very dignified. [Laughter.]

But in the development of the industry the skill was a factor, and as was also the fact that until recent years a piecework system was the rule.

It has taken 40 years to eliminate the piecework system slowly and without too much strife. In the old days everything was piecework, and a printer would be assigned a set of cases, to set from a case full of type, and his job was to set type out of those cases 7 days a week, and he got paid so much a thousand ems for setting type.

Well, the type had to be thrown into the case again after use, so he came down in the daytime if he was a night worker, and distributed the type so he would have some more to set up at nighttime.

Likewise, in reverse if he were on the day job he, of necessity, had to see that the type was distributed cleanly so that when he set it up he would not have too many typographical errors. In that system, and that system of making the man responsible for his job his feeling of responsibility has persisted on through the years.

If a man does not take care of his job, then he is guilty of what we call "jumping" his job, and he can be discharged for doing that. That has always been the case; and from the beginning the man who was assigned a set of cases had the responsibility—that was called a situation—and if he wanted to be off, he had to employ a substitute to cover his situation, and set type from that set of cases.

That was his obligation, and to this day a union printer has the right to employ a substitute without consultation or approval of the foreman so long as he covers his situation.

Now, I can well understand that someone reading the book of laws, as of now, and without that history, without that knowledge, and without knowing that it is the tradition of the industry, might feel, "Well, what business has an employee got to interfere with management and inject a man in the composing room?" It sounds silly to some of these modern people, but, we, of the typographical union, regard that as a right, and a right that we will not give up. That is so firmly entrenched in our organization and in our industry as to provide a certain amount of economic democracy and make it possible for a man not to be unfairly treated by an employer as regards being absent from his job.

We also have, from the beginning, rules concerning the protection of men from discharge, and until recent years the matter of discharge was one wholly handled by the union.

If a man was discharged, his fellow workers in the shop—we called it a chapel—we inherited the word “chapel” from England, in the early days. A shop was a chapel. The members in the chapel passed on the justice of that discharge, and in the early days that finished it. In later days the matter of discharge was appealable to the local union and executive council of the International Typographical Union, and that decision was final until reversed by a convention, if a man wanted to carry it to a convention, and some have.

But the security on the job, and the stability of the service that we have rendered has been one which has been a responsibility of the union, and one which the union has enforced uniformly all of these years.

Now, there are other laws in the general laws, having to do with other working conditions in the shop that have been established over long periods of time. Each reduction in hours has been nailed down in the lawbook so that no subordinate union may make any agreement for a longer workday than 8 hours a day, nor more days per week than five, and all of the time local unions have negotiated through agreements with employers contracts for less number of hours than eight per day. At the present time there is a 37½-hour average or less in the entire industry.

Now, the effect of these laws simply means this, as was the case with piecework: When we have secured a sufficient part of the industry operating under these favorable conditions and the elimination of piecework, when there were only, I believe, 13 remaining piecework scales, the international convention then adopted a law prohibiting local unions from having a contract with the piecework provision in it. These stragglers in the establishment of the favorable conditions are thereby served notice that from now on they cannot make a contract with piecework in it.

Then, the same way with hours, the same with regard to the use of the union label. It has been the same with regard to a minimum wage by employers who use the union label. In other words, whatever the development of the industry has produced through the process of collective bargaining is nailed down in the lawbook so as to make it uniform throughout the country for members of the union. The union rules as regards economic matters, are obviously and by the very necessity, limited to that degree of what could be established throughout the country without having to strike for them, because if you adopt a rule that you have to have a national strike about, you want to be pretty sure that that rule is one that the overwhelming majority of the members in the organization will strike to enforce, because if they do not, the procedure of making rules for international enforcement absolutely breaks down.

In other words, the trouble that you might be put to is a brake on the type of a rule that you might make. These rules, I say again, are made by the members themselves. The members themselves in local unions, through delegation of their authority to a delegate, democratically elected, make them themselves. The international union is not just a group of officers inflicting anything upon the members. The members are the international union, and the members' rules are the international laws.

Senator NEELY. It is truly a self-governing body.



**Mr. RANDOLPH.** A self-governing body completely and absolutely.

When it comes to collective bargaining, that is the business of the local union. It is the authority of the local union and the local union acts under its own restraints through international law.

The international officers are executive officers to see to it that these laws are enforced generally.

Now, the effect of these laws in an industry that has over 30,000 units of manufacturing plants is to stabilize it.

Here are a group of employers, we will say, in, take Chicago, I know more about it, I was president there in 1926, 1927, before I became international secretary-treasurer.

At one time there were less than a third of our members employed in offices belonging to an association of employers but we always dealt with an association. We made an agreement with an association, with the understanding that we, as a union, had to enforce these same conditions in all of the other shops in the city. That has been the situation which has obtained ever since, and not only that, but the newspaper publishers in the city have always had a clause in the contract we made with that association whereby the union would see to it that that was done; and if the union granted a different or better condition to any other daily newspaper in the city, upon request of the association the union would also permit the contract to be changed to give them that same favorable condition. Stabilization of the industry through union laws is a recognized principle, and without it, it would be impossible to operate with any degree of stability in an industry which has so many units and so much competition that the industry would cut its own throat by competitive processes.

The union has laid a floor for stability. It has laid a floor for collective bargaining by having the same working conditions operate all over the country.

A man can learn the trade in New York and go to Los Angeles and know what is expected of him and perform. He can go from Seattle to Florida or from Canada to the Gulf, and everywhere he goes he can practice his trade, as we call it, his profession, with the same assurance of knowing what is expected of him; and the employer has the same assurance that he is getting a competent man who knows how to work in the composing room.

It has been a benefit to the employers as well as to the union, and with it has gone over the years an apprenticeship training program whereby it was assured that these craftsmen did learn the trade, and that they did know what they were to do when they went from place to place.

We have not only supplied through democratic procedures and collective bargaining a competent staff of workmen, which have been of benefit to the employer and of benefit to the union, but in the establishment of that force we have provided a mobility that was important; a man going from place to place, as the volume of work might grow or move from town to town. We have a mobility as well as an apprenticeship training that guaranteed that workers knew a trade when we went from town to town.

**Senator SMITH.** Mr. Chairman, I regret exceedingly that another responsibility of mine calls me away at this moment. I am profoundly interested in the testimony of Mr. Randolph.

I have always had the highest regard for this particular union, having had many friends in it, and I am just raising the question of whether you plan to have Mr. Randolph here after lunch today because I would like to ask him some questions to clarify my own thinking. I am unable to do that now because I have to go to another appointment.

The CHAIRMAN. That depends entirely on the committee. If I may judge from what has happened in the past, I judge he will be here this afternoon.

Senator SMITH. That is my assumption. I sincerely hope so. I regret that I have to leave, but I want to thank Mr. Randolph for what he has said up to this time, and I hope to talk with him later.

Mr. RANDOLPH. If we do not, Senator, I would be glad to visit your office and spend several hours with you.

Senator SMITH. We will do that if I do not get a chance to talk to you here. Thank you.

Mr. RANDOLPH. A final word about the democracy of the organization. For all of the time that there has been an organization of employers we have had a convention rule that employers' associations may send a representative to our conventions and discuss any matter that is of importance to them.

I would like to read to you section 4 of article I of the convention laws on page 127 of the law book—that is the 1948 law book—and it is as follows:

No person other than duly elected delegates and officers shall be accorded the privilege of the floor during the sessions of the international union except by unanimous consent of the convention; but when requested, a representative of the American Newspaper Publishers Association, the United Typothetae of America, the Printers' League of America or the Printers' National Association shall be heard on important changes in the laws affecting their interests.

They can debate any question before the convention, but they cannot vote on it, and dating back to the time when local unions adopted their own scales of prices, we have had an international law that provided for local unions to permit employers to discuss with them any important changes made in the scales of prices, granting to an employer access to a union meeting to discuss his side of the question. And at no time in the history of the organization is there any record of any such refusal. They are oftentimes welcomed into union meetings to discuss these matters, and any time they have requested it, they have had the opportunity to do it.

The CHAIRMAN. They talked freely during the operation of the National Labor Relations Act without question of what they said? Did they feel that they had freedom of speech with you, or did you say, "You cannot say that here"?

Mr. RANDOLPH. Oh, yes, there was no question of free speech in our organization. We have always welcomed it, and if an employer can out-argue the members of the union, he has that opportunity within the union meeting if he requested it.

I recall one publisher requested that privilege not so long ago in Louisville. He was granted the privilege, and the union asked me to come and state the views of the international union on the same subject he was to discuss, and the publisher and I debated the question before the local union.

The CHAIRMAN. Was there ever any restraint during the operation of the old Wagner Act about their talking freely?

Mr. RANDOLPH. None at all; none at all.

The CHAIRMAN. Were you ever accused, your union ever accused of being a company union at all?

Mr. RANDOLPH. Absolutely not.

The CHAIRMAN. And you had no difficulties with any of the representatives of these employer organizations that you have mentioned; were they parties to the various petitions asking for modification of the Wagner Act so that they could have freedom of speech? Do you know whether they considered themselves hurt by the way in which the National Labor Relations Board carried on the operation of the law?

Mr. RANDOLPH. So far as I know they had made no such representations.

The CHAIRMAN. There was not any talk about it in your meetings when they came?

Mr. RANDOLPH. No.

The CHAIRMAN. Did anybody say, "Well, I have got to be careful now because I might find myself in contempt, before the Board if I express my will openly by saying certain things?" They felt free, did they, as free after 1935 and 1936 as they did before?

Mr. RANDOLPH. Oh, they always did, and if you would attend any of our meetings or conventions you will find that there is always somebody that will take the hide off of the officers or anybody he sees fit.

The CHAIRMAN. Do they say now, as they come in, since the operation of the act of 1947, do they say, "Well, now, I feel fine; I can come in and talk to you freely without restraint?" Have you noticed any difference, in other words?

Mr. RANDOLPH. There is no difference except the heat that the Taft-Hartley law has generated. There is more conversation and it is hotter.

The CHAIRMAN. We have sometimes heat in this committee, but we all remain brothers.

Mr. RANDOLPH. So I notice.

Senator TAFT. Brothers, you said?

The CHAIRMAN. Brothers.

Excuse me, Senator Neely, for breaking in there.

Senator NEELY. Have you completed your comment, Mr. Randolph?

Mr. RANDOLPH. I think I have indicated that we are a democratic organization along the lines of your questions, and our democracy—

Senator NEELY. I had no doubt about it, but I thought it ought to be stated in the record.

Mr. RANDOLPH. I think it is very important in view of the general situation to understand that the economic provisions that are contained in our book of laws are the minimum basis of the nationally applied union regulation, and that our members make those rules, and the position in the union is that they have a right to stand on that book of laws as a general economic law throughout the whole Nation for any collective bargaining that is done. That is one of our basic and fundamental positions which we will not desert, and which we will defend to the absolute end of the union because it would mean the end of the union if we did not operate under such conditions.

Senator NEELY. Mr. Randolph, please briefly discuss the relationship of your organization with the employers, from the standpoints of cooperation and peace, first, before the Wagner Act was passed, secondly under the Wagner Act, and thirdly under the Taft-Hartley Act.

Mr. RANDOLPH. The relationship between the subordinate unions and the international union and employers has always been on a very friendly basis, and one of the really best that you can imagine. We have not recognized the idea that there is any such thing as class consciousness about this matter.

The union has never undertaken to do other than to discuss the economic phases of our existence, and to arrange the best deal that we can arrange by collective bargaining.

That persisted under the Wagner Act, and the Wagner Act had practically no effect on our union whatsoever. We made very few efforts to even use the Wagner Act.

As regards the matter of collective bargaining, that is one of our historic purposes, and we never presumed to collectively bargain with anybody unless we had a big majority of his employees in our union.

Our organization efforts have been made along the lines that I have set down, so that we did not use the Wagner Act except in very few instances. To my way of thinking, in our industry, it was of no particular value because in the essence of the situation, it all depends upon either the good will of the parties' bargaining with each other or the economic ability of the union to withdraw sufficient members to stop the production of the plant, so that the employer would be willing to bargain for wages and conditions, and so on.

The Wagner Act as I say, had very little effect, and we very seldom used it.

Obviously, it was for the purpose of protecting other unions and the formation of other unions against what was adequately proved before the senatorial committee to have been a move on the part of big employers to prevent organization by the use of various illegal methods. The Wagner Act, as I understood it, was simply to take the foot off the employers off the neck of the workers, so that they could organize and could bargain.

We have been doing that for a hundred years, so that it has no effect upon us, and in the final analysis economic strength is the only thing that will determine whether a union wins or loses.

Our relationship was not disturbed at all when the Wagner Act was adopted. It was not bettered at all.

Senator NEELY. Did you live in perpetual peace, or were you frequently at war with the employers before the Wagner Act?

Mr. RANDOLPH. We were always at peace.

Senator NEELY. Were you at peace with them under the Wagner Act?

Mr. RANDOLPH. Yes, we were.

Senator NEELY. Have you been at peace or war with them since the Taft-Hartley Act was passed?

Mr. RANDOLPH. Well, we have been at peace with a large majority of the individual owners of newspapers and commercial establishments. A war has been put upon us by representatives of the Ameri-

can Newspaper Publishers Association, and representatives of the Printing Industry of America, representatives of which testified here the other day.

No, this war is one of representatives, and I venture to say, without knowing their internal affairs, that there is far less democracy in determining the course of policy in that organization than there is in the International Typographical Union.

The CHAIRMAN. How old are their orders?

Mr. RANDOLPH. Well, the Printing Industry of America is only a few years old. It is sort of a successor of the Printers League mentioned in our book of laws. We have tried to keep this up to date in giving the various national organizations an opportunity to talk to us, but it is not a very old organization in the commercial field. The very fact that the vast majority of employers in both commercial and newspaper fields are doing the contrary to the advice of their national organizations proves that they do not approve it and that they did not go along with it to begin with except as a general proposition whereby they might weaken the organization through the abolition of the book of laws as a foundation for collective bargaining.

Senator TAFT. Or that they have no choice because your power is so great that they have to sign or go out of business?

Mr. RANDOLPH. Senator, I wish our power was as great as you say. It has cost us millions of dollars each time we tried to exercise any power, and in establishing the 8-hour day it cost the International \$5,000,000 in 1906 and local unions some \$8,000,000 to get the 8-hour day in 1906. Being inclined to do a statesmanlike job, as they refer to some of these acts of unions, in 1919, at the conclusion of the war, when the shorter workweek could easily have been prescribed and taken, the international officials made an agreement with a group of employers on a national basis to institute a 44-hour week in 1921, give them 2 years to bring it about. When the 2 years rolled around, the employers said, "Nuts to you. There is a depression on. You are going to keep on working 48."

The result was it cost us \$16,000,000 to make good on an agreement we made in 1919, and that is not very powerful. It lost us some 6,000 members and hundreds of shops went into the nonunion column.

Senator PEPPER. Will the Senator yield for a question?

Senator NEELY. Certainly.

Senator PEPPER. Mr. Randolph, you say that was in 1921. State whether or not after World War I there grew up in the country and in the administration then in power an antilabor policy at that time which was reflected in the attitude that you just described, on the part of management?

Mr. RANDOLPH. The attitude against the fundamental policy of the ITU was very well indicated by the American Newspaper Publishers Association in 1922, when at the expiration of the arbitration agreement in effect between the international union and the ANPA, it refused to renew it because of the provisions of the book of laws. From 1922 on the machinery of arbitration was kept intact for any local union and publisher that wanted to use it, but there was no international commitment on arbitration as a means of settling disputes.

Senator PEPPER. Did you get any help from the Government in that crisis of yours?

Mr. RANDOLPH. Well, Senator, we have never appealed to the Government and we have always regarded this matter of industry and labor as one of them to settle themselves, if allowed to do it.

Senator NEELY. Has the Taft-Hartley law been productive of peace or strife so far as your union is concerned?

Mr. RANDOLPH. It has been productive of strife in this way, Senator Neely. The Taft-Hartley law provided various alternatives that an employer might use through which he could destroy the craft.

It permitted him to transfer our work, the work upon which we have earned our living for 100 years, to any other trade, craft, or class of employees, union or nonunion, and it prohibited us from striking to prevent him from doing it. Well, obviously, that is such a simple way of putting the squeeze on the union that whether he does it or not, he has the present opportunity to do it, and if he does not, it is only because he wants to maintain the union strong enough at least to give him the stability that he has always been accustomed to having, but it does give him the opportunity to club the union by saying, "Unless you do this or that, I will do this so it will ruin you."

That was one of the worst things the Taft-Hartley law did, and if I recall the legislative history I once read of the act—and once was enough—that provision was put in during the sessions of the conference committee. It had not been on the floor for debate at all. Somebody brought it to the conference committee and at once it was adopted and we were subjected to the very tool by which the employer could slice up the union and the various tasks that go to make up a trade.

Senator TAFT. Which provision was that? You said "conference."

Mr. RANDOLPH. The provision of the trade, craft, or class, 8 (b) (4) (D).

Senator TAFT. It is in a House bill. I assume it was debated in the House, but it was not debated in the Senate.

Mr. RANDOLPH. Well, that is, as I recall, a restraint of the Taft-Hartley law, and the powers given to employers to do as they please interfered with all of the stabilizing influences we had built up over a hundred years.

Senator NEELY. What policy of collective bargaining, if any, has your union adopted under the Taft-Hartley Act?

Mr. RANDOLPH. We were immediately aware of these dangers to our organization, and we consulted an attorney whom we thought was one of the best, an ex-judge of the Supreme Court of the State of Indiana. He spent many hours with us working on the problem. He attended our convention in Cleveland and assisted and guided us in preparing a collective-bargaining policy which he thought was within the law and which we thought was within the law and which would not sacrifice unnecessarily any of the rights that we had established.

We conceived that some portions of the law meant what they said and proceeded along that line. We conceived the idea we could proceed to bargain collectively within the whole mandate of the law, as we always had done, but that we would not proceed to the point of signing a contract which would bind us to the employer while he could exercise some legal rights under the Taft-Hartley law to split us up.

The employer has some rights to grant us certain conditions that we cannot strike for; but, as I say, the collective bargaining policy adopted by the Cleveland convention was to continue, as we always

had, to bargain with our employers but that we would not ask for a contract and we would indicate that we did not want one.

The adoption of that proposition plainly stated, and I quote:

There should not be and will not be any attempt on the part of the international or subordinate unions to violate any valid provisions of this law or of any law, Federal or State—

and we proceeded under that policy to try to bargain.

Senator NEELY. What was the result?

Mr. RANDOLPH. Well, the immediate result, shortly after our convention, was at least a newspaper account of a speech made by Mr. Denham, general counsel of the National Labor Relations Board.

Senator NEELY. The man who has been on the witness stand here for 3 days?

Mr. RANDOLPH. Yes; indicating that we were offside in our attitude, and it was not legal.

Senator TAFT. When was that; what was the date of that?

Mr. RANDOLPH. I did not keep a copy of it. I recall it was not too long after our convention, which was in the latter part of August of 1947.

Senator TAFT. And his speech was a result of the resolution adopted at that convention, I assume? He was commenting on that?

Mr. RANDOLPH. Yes.

Senator TAFT. That was this resolution:

It will be our policy to refrain from signing contracts in order that we avoid agreeing, or seeming to agree, or voluntarily accepting the conditions created by such a relationship under the Labor-Management Relations Act of 1947 \* \* \* our members may accept employment only from employers who are willing to employ them under the "conditions of employment" which the several unions adopt, after approval of the executive council of the ITU. A conditions-of-employment form, which must be used by all unions and which is uniform except for local scales and practices, has been printed for the convenience and use of all subordinate unions. The form sets out the conditions under which our members offer their services.

He was commenting on this first statement, I assume:

It will be our policy to refrain from signing contracts in order that we avoid agreeing, or seeming to agree, or voluntarily accepting the conditions created by such a relationship under the Labor-Management Relations Act of 1947.

That was the occasion of his speech; was it not?

Mr. RANDOLPH. I think so, yes; and likewise not too long after a speech by Mr.——

Senator NEELY. Pardon me for interrupting. Where did he make that speech?

Mr. RANDOLPH. It is my information or memory that it was before the bar association in Cleveland, either the bar association or bankers' association, I do not know.

Senator NEELY. Would it be possible to obtain a copy of that speech?

Mr. RANDOLPH. I would not have a copy of the speech. All I know is what was stated in the paper, and I was not concerned too much about it, so I did not keep a copy of it.

It indicated to me a prejudging and a hostility which I just registered in my mind as such and let it go. We had too many other things to think about to try to find the way to handle this thing without taking ex parte judgment on the facts.

Senator NEELY. Were you intimately acquainted with Mr. Denham at that time? Did you know his attitude toward labor unions?

Mr. RANDOLPH. No; I did not.

Senator NEELY. Did you know at that time he was opposed to the closed shop, for instance?

Mr. RANDOLPH. No; I did not know about Mr. Denham, I say, because we used the Wagner Act almost never, very seldom. I did not keep track of the various governmental personalities or functions that went along in the operations of that—

Senator PEPPER. Will the Senator yield a moment? I think it would be appropriate for this record to contain either a copy of Mr. Denham's speech, if there was one made, and if not, any newspaper account of it that might be had, and I would like to voice the request, if there are any of Mr. Denham's representatives here, that Mr. Denham see if he has a copy of his speech and be kind enough to supply it to the committee.

If not, would he give the date of it and furnish us any newspaper clippings he has on it? If not, our own staff can seek to obtain that.

The CHAIRMAN. Mr. Johns, will you do that?

Mr. JOHNS. Yes, sir.

Senator PEPPER. As soon as possible.

Mr. RANDOLPH. Secondly, an instance was the fact that Mr. Tom Shroyer appeared before a meeting of commercial printing employers, in French Lick, Ind., where he made similar comments. They were printed in the Indianapolis newspapers.

Senator TAFT. I ask that that speech also be put in the record.

The CHAIRMAN. No objection.

Senator PEPPER. That is Mr. Shroyer who was at that time general counsel of the Joint Labor-Management Committee of the Senate and House under the Taft-Hartley Act?

Mr. RANDOLPH. That is right. The only effect those speeches, or the published accounts of them, had on me was to indicate that the Government agencies were hostile to us, and had accepted vilification or some other reason for that hostility.

Senator PEPPER. Will the Senator yield for a further question?

Senator NEELY. Yes.

Senator PEPPER. Would you be kind enough to tell us whether either Mr. Shroyer or Mr. Denham had heard argument from you or your representative or from any legal representative of the International Typographical Union on the merit and the legality of your action before such speeches and comments were made?

Mr. RANDOLPH. He had heard nothing from us.

Senator TAFT. Except your official statement, which could only be interpreted in my mind as a defiance of the law which they were trying to enforce, that is all. I think that is an exception, I should think.

Mr. RANDOLPH. I wish you would read the official statements that indicated defiance of the law, Senator.

Senator TAFT (reading) :

It will be our policy to refrain from signing contracts—

Now the law prescribes that unions shall engage in collective bargaining, collective bargaining shall be the signing of a written contract—



in order that we avoid agreeing or seeming to agree or voluntarily accepting the conditions created by such a relationship under this act.

If that is not a defiance of the law, I would like to know what it is. I cannot interpret it in any other way.

Senator PEPPER. Excuse me. Will the Senator yield? I wonder, Mr. Randolph, if it might not be appropriate to recall the definition of due process of law given by Senator Daniel Webster to the effect that in due process of law one is heard before he is condemned.

Mr. RANDOLPH. I hope that is still the law, although I am commencing to doubt it.

Senator NEELY. In this case you know it was not, do you not? Here is an official blowing off. The witness has been blowing here for the last 3 days, crying out against everything that could not be approved by, I had assumed, the National Manufacturers Association.

Senator TAFT. I object to the Senator's statement, Mr. Chairman, as an imputation and motive of a Government official without any justification whatever. I think it should be withdrawn by the Senator.

Senator NEELY. No; I do not withdraw it. I am not making any implication against you, sir; or any Member of the Senate. I am not violating any rule of the Senate.

I reiterate what I have said about this man. I think his conduct here as a witness is such as to impel and force every labor union in the United States to petition for—he has shown such bitter prejudice that he has no business sitting, being on any Government pay roll that involves relationships between toiling men and those who hire them.

Senator TAFT. Mr. Chairman, the record will show, so I will not argue with Mr. Neely—if the distinguished Senator will excuse me for interrupting—I think the record will show his statement is wholly and completely out of accord with the facts of the testimony of Mr. Denham.

Apparently anybody, except the Members of the Senate, and perhaps those who defend the Taft-Hartley law or try to enforce it or interpret it fairly is indicted as a criminal and a generally undesirable person.

Senator NEELY. No, Senator; I except to that statement. I think there are some who are in favor of the Taft-Hartley law and are defending it in a temperate manner. I do not think that this witness is in that class. I think he is the most prejudiced man I have ever heard testify in any sore of legal or political investigation.

Go ahead, Mr. Randolph.

Mr. RANDOLPH. I want to reiterate that the collective-bargaining policy has stated categorically:

There should not be and will not be any attempt on the part of the international or subordinate unions to violate any valid provisions of this law or of any law, Federal or State.

Now whether or not we violated the law, certainly could only be stated after we had been tried and found guilty of violating the law. One of the unfortunate things about the Taft-Hartley law is that it gives to the general counsel the authority to proceed on his interpretation of what the law means, and in that procedure hamstringing any local union for a sufficiently long period of time that the union can be completely destroyed.

We do not believe, did not believe at that time that the general counsel was right in his attitude of hostility without having first heard the facts concerning it, or at least consulted us about the facts, and at least found some opportunity to really see what the other side had to say about it.

SENATOR PEPPER. I think the quotation I was trying to recall a while ago was that due process is to inquire before condemning and rendering judgment through due process of law.

SENATOR TAFT. May I not ask whether the Baltimore case had not been already instituted at that time?

MR. RANDOLPH. Not to my knowledge, Senator.

SENATOR TAFT. It was not?

MR. RANDOLPH. As I recall it——

MR. KAISER. October 6 was the Baltimore case.

SENATOR TAFT. What was the date of the speech?

MR. KAISER. The date of Shroyer's speech was before then, I know that. I do not recall the date of Mr. Denham's speech.

MR. RANDOLPH. Now the unfortunate part about this law is that so many people get so many things out of it. I attended a conference of some 75 or 80 lawyers in Washington, D. C., here, labor lawyers who were going to have to represent unions about this law, and I explained our situation and the opinion of that group was that we were absolutely legally right.

That was before our convention and then after discussing this matter with Judge Martin, who was with us at the convention and helped us draw up this policy within the law as he saw it, we found this Government hostility against us, and we then decided that if this thing is going to be a matter that is going to be kicked around in Washington, we wanted some Washington lawyers, so we hired a couple more. We have had three lawyers for all of this time when before we never had to have any.

We could pursue our collective bargaining and friendship with honor and arrive at satisfactory conclusions, and have done so for a great many years, but now instead of having some 1,200 contracts, we had less than 100, and the major portion of employers are fully content to go along with a satisfactory increase in wages, while all of these numerous lawyers and trials and what not go on. They are interested in running a printing business or a publishing business and they are not interested in all the refinements of technical torture that can be applied to us.

The unfortunate part is that here are some representatives of associations of employers taking it upon themselves to refine these tools of torture to be used as they desire for any employers throughout the country.

Naturally the employers are waiting to see if they are going to get any such tools, all the time knowing the character of the International Typographical Union and its members, all the time having not the slightest idea that they can destroy that book of laws by any law whatsoever, and that the members of the organization will remain intact as they have remained intact in Chicago for 16 months or more on strike against this law, not 16 months, but since November 1947.

SENATOR TAFT. Strike against the law? I am glad to have you state that frankly, because that is what it is, of course. How can any en-

forcement officer possibly condone a strike against the law? That is what I would like to know.

Mr. RANDOLPH. Senator, I will be glad to tell you.

Senator TAFT. I mean you said, and you mean, I assume, that it is a strike against the law.

Mr. RANDOLPH. No, no, no.

Senator TAFT. You said so.

Mr. RANDOLPH. No; that is not the purpose of my statement, and if it can be so interpreted I want to correct it.

The strike in Chicago was for a wage rate only, and every day since that strike has been in effect the publishers have known that the members of that union would return to work if they paid a fair rate of wages, and no other condition attached to that rate of wages.

Senator TAFT. That was not according to my information, but I have not checked up. You may be right.

Mr. RANDOLPH. That is a fact, Senator, and the reason why we could not get a fair rate of wages was because the Chicago newspaper employers took the position that they would not grant a fair rate of wages until the union signed a contract to their liking which would make it possible to destroy our organization.

Senator TAFT. No, until the union signed a contract in accordance with the law, I think, Mr. Randolph.

Mr. RANDOLPH. That may be your opinion and it may be the publishers' opinion, if they are honest, but let me call to your attention, Senator, that you are not permitted to be authoritative with regard to interpretations of that law. Neither are the Chicago publishers, and neither are we, and neither was the judge of the Federal court that enjoined us and found us in contempt of that injunction.

Neither was he permitted to determine whether or not we violated the law, and not until the National Labor Relations Board—God knows when they ever will, not until they do—make an interpretation, will any court of authority say that we violated the law.

Senator TAFT. But still you say it was a strike against the law.

Mr. RANDOLPH. No; it was not a strike against the law.

Senator TAFT. You take back what you said then. Is that right?

Mr. RANDOLPH. If what I said can be so interpreted—

Senator TAFT. You said so in so many words, a strike against the law for 16 months. That is what you said, Mr. Randolph.

Mr. RANDOLPH. I correct that statement.

Senator TAFT. I am afraid you meant it. It seems to me perfectly clear that is what it is.

Mr. RANDOLPH. If so, I correct it. The point is that we struck for wages in Chicago, and the point is that every day since that strike the men would have returned to work had they paid that rate of wages.

That is sufficient, I think, to answer your point, and I say further that your interpretation and the Chicago employers' interpretation, or our own, has to proceed along legal lines to the tribunal set up by the law to render a decision, and the Lord knows when they will ever render one, and in the meantime the general counsel's interpretation is accepted by the court because the court only has to decide that he is satisfied that there is a probable violation of it, and thereupon gives the Government an injunction against us in sweeping terms that

makes it almost impossible for us to do anything without fear of being found in contempt of court. When we were, the ridiculous basis upon which we were found in contempt of court is self-condemnatory. I do not have to say anything about it.

Senator DOUGLAS. Mr. Chairman.

The CHAIRMAN. Senator.

Senator DOUGLAS. May I ask a question?

The CHAIRMAN. Yes, sir.

Senator DOUGLAS. If I may get behind some of the recent discussion, is it not true that prior to the Taft-Hartley law you had satisfactory collective agreements with the Chicago newspaper publishers?

Mr. RANDOLPH. We did.

Senator DOUGLAS. And is it not true that prior to the Taft-Hartley law there was no objection on the part of the publishers to the so-called closed shop?

Mr. RANDOLPH. There was never any objection to that.

Senator DOUGLAS. Is it not also true that upon the passage of the Taft-Hartley law which forbade employers and employees from agreeing to the closed shop, that the publishers felt that that law tied their hands and that they were unable to continue such an agreement?

Mr. RANDOLPH. Many employers felt—

Senator DOUGLAS. That is the newspaper publishers.

Mr. RANDOLPH. Yes, and the commercial employers also, and, Senator, we have never since the Taft-Hartley law was in effect, asked an employer to sign a closed-shop agreement, never.

Senator DOUGLAS. Well, what I am trying to get at is this: Is it not true that the publishers, with the best will in the world on their side, felt that the Taft-Hartley law prevented them from making the contractual arrangement which had prevailed in the past?

Mr. RANDOLPH. That is true, Senator.

Senator DOUGLAS. And if it had not been for the passage of the Taft-Hartley law, in all probability you would have been able to renew the contract and to have had peaceful relations.

Mr. RANDOLPH. That is undoubtedly so.

Senator DOUGLAS. So that in your case this clause and certain other clauses in the Taft-Hartley law, instead of leading to industrial peace, helped to precipitate this very costly and vexatious strike?

Mr. RANDOLPH. That is true.

Senator DOUGLAS. Thank you.

Mr. RANDOLPH. With regard to the closed-shop question, the Chicago publishers themselves are on record at a hearing held in Chicago by a subcommittee of the watchdog committee, as it is called, for the very purpose of finding out about the Chicago strike.

Now as Senators I call that to your attention. Here was Chairman Hartley appointing a subcommittee to come to Chicago and investigate the Chicago newspaper strike. Well, maybe it was the House committee. I stand corrected.

Senator TAFT. It was the House committee, not the joint committee.

Mr. RANDOLPH. I am sorry.

Senator TAFT. I personally would not have approved of it. I fully agree with you.

Mr. RANDOLPH. Well, if possible Mr. Hartley is a little bit more convinced against the Typographical Union than Senator Taft, so

that when he appointed a subcommittee to visit Chicago, calling witnesses, one of which was myself, and examined into the causes and the operation of the Chicago strike, when he did that, and after that committee meeting, nothing happened, you ought to be pretty sure that there was nothing illegal about the Chicago strike.

Senator NEELY. Has that case been decided by the Supreme Court of the United States?

Mr. RANDOLPH. There has not even been a decision by the National Labor Relations Board upon these facts. As regards the closed shop, the secretary of the Chicago Publishers' Association testified in that subcommittee hearing, and it is set out on page 4 of the pamphlet attached to our statement, where he is questioned by Congressman Kersten, a half dozen lines. I would like to read it.

Congressman KERSTEN. Up until now and for a great many years past you had a closed-shop agreement, didn't you?

Mr. O'KEEFE. Yes, we did.

Mr. KERSTEN. How did that feature work out in your previous contracts so far as your closed-shop provision of the contract was concerned?

Mr. O'KEEFE. We never even discussed it. It had been there for years and it has remained there.

Mr. KERSTEN. Did you have any real difficulty with it so far as your union, the ITU, is concerned?

Mr. O'KEEFE. We did not. As a matter of fact most of the Chicago publishers or all of the Chicago publishers I would say would prefer to continue a closed shop if it were legal.

Mr. KERSTEN. The reason for that is that this particular union has been a long-term institution that has a certain amount of tradition behind it, a considerable amount, and it is a responsible union, and under those conditions a closed shop has worked out so far as the Chicago publishers are concerned. Is that right?

Mr. O'KEEFE. Yet, it has.

Senator NEELY. Mr. Randolph, in your direct statement I understood you to say that your union had established a floor under the relationship between the employers and the employees, and had maintained that floor. Did the employers cooperate with your union in that matter prior to the enactment of the Taft-Hartley law?

Mr. RANDOLPH. Oh, yes; they not only cooperated but they insisted that the union floor be enforced by the union in shops that are not members of the association, both newspaper and commercial, and that is the policy all over the country.

Senator NEELY. As I understand it, that cooperation so far as the persons to whom you have referred are concerned has been withdrawn since the Taft-Hartley Act was passed.

Mr. RANDOLPH. Well, no, in the commercial field—

Senator NEELY. No; I say as between your union and those who are prosecuting this case, does that cooperation still exist?

Mr. RANDOLPH. No; we are still on strike in Chicago.

Senator NEELY. That is what I thought.

Mr. RANDOLPH. That is right.

Senator NEELY. Then the cooperation has not continued so far as the litigants are concerned since the Taft-Hartley law was passed?

Mr. RANDOLPH. In the newspaper field, no.

Senator NEELY. That is all.

Senator PEPPER. Mr. Chairman.

The CHAIRMAN. Senator Pepper.

Senator TAFT. Is this on Senator Neely's time?

Senator NEELY. I have concluded my examination.

Senator PEPPER. Has any time been fixed?

Senator TAFT. No, but I thought——

Senator PEPPER. He had concluded and I was going to——

Senator TAFT. I am not the next!

The CHAIRMAN. Senator Neely took Senator Murray's place. Senator Neely was the first one called. It ought to come over to this side.

Senator Taft.

Senator PEPPER. Very well.

Senator TAFT. Mr. Randolph, first with regard to the question of all this litigation, I do not want to go into litigation, but is it not a correct statement to say that if the union had been willing to sign a contract eliminating the closed shop, all other controversies would have been settled?

I mean, was not this strike really brought about by the union's position that they would not sign a contract containing the closed-shop provision, that is, unless it contained the closed-shop provision?

Mr. RANDOLPH. That is not true at all. That is just not so.

Senator TAFT. Is not that the substance of it?

Mr. RANDOLPH. No; it is not.

Senator TAFT. I do not want to press it, but it seems to me so clear that if you had accepted the terms of the union shop, come to Congress for an amendment of it, there would have been no such strike as you had.

Mr. RANDOLPH. That is not so, Senator, because we have on record many contracts without the closed shop in it, and within the law as has been determined by employers' lawyers. Your assumption is entirely wrong. The contracts have proven it.

The contract in New York in the commercial field contained provisions that the lawyers for the commercial employers association drew up. We did not draw them up.

They stated to us that if we were willing to sign a contract within the law, that they would give us all the protection that the law permitted them to give. We asked them to put it down in writing and they did, and what they drew up by way of union protection was accepted by us as the maximum we could get under the Taft-Hartley law, and the local unions signed that contract with our approval. The same was done in the newspaper field in New York City.

After a period of time the same kind of an agreement was worked out with the newspaper publishers in New York City, and neither of those nor any other of the contracts, perhaps numbering 75 to 100 that we have approved, have any reference whatever to the closed shop.

Senator TAFT. But you take the other printing unions, the International Printing Pressmen, the Brotherhood of Bookbinders Union, and three or four others, they have not had the difficulty you have had. Did not they accept the union shop? Did not they agree to operate under the union-shop agreements of the Taft-Hartley law?

Mr. RANDOLPH. I cannot testify on what they have done.

Senator TAFT. Well, is not the only reason that you have had this peculiar difficulty the fact that you have struck against this provision of the law on closed shop, regardless of its merits? I am not saying you did not have a right to, but I am only trying to bring out the fact that the extent to which you have had difficulty has been your deter-

mination that you would not agree to a contract unless it practically included the closed-shop provision.

Mr. RANDOLPH. That is not true at all, and I think if you would read either the contract of the New York commercial printers or the New York publishers, or the contract of the Detroit, Chicago, or Philadelphia commercial employers, you would find that that was not so.

Senator TAFT. What did you mean when you said:

It will be our policy to refrain from signing contracts in order that we avoid agreeing or seeming to agree or voluntarily accepting conditions created by such relationship under the Labor-Management Relations Act?

Did that mean you would not sign a contract?

Mr. RANDOLPH. Senator, there are, as I stated before, opportunities of the employer, if he sees fit to use them, that would destroy the organization if we signed a contract for economic purposes only or with some loose clause whereby they stated, "These are the conditions of work, except as may be provided in the Taft-Hartley law." That is a wide-open door to kill us off at their desire.

Senator TAFT. Did you not over and over again refuse to sign contracts and state that you would post conditions of employment, and if the employer wanted you to work, he would agree with those conditions of employment? Was that not done in many shops and newspapers throughout the country?

Mr. RANDOLPH. No; that was not so, Senator. You have been listening to propaganda. The fact of the matter is that after our convention and after this exhibition of hostility by the Government to a practice we had followed all of our lives, I say we hired a couple more lawyers and listened to their advice on the matter.

They agreed with our position, but they pointed out some of the various interpretations put on the Wagner Act through the years about the matter of bargaining in good faith and what that all meant. They advised us that we could offer a contract which would give us the maximum protection of the law, and our procedure in litigation would be less hazardous, so we devised a contract, with their help, that we offered to the employers and which was offered to the commercial employers in Baltimore, the first case against us, the first charges brought against us, the first complaint issued, and the first hearing held.

We had offered, the local union, the bargaining agent had offered to the Baltimore employers a contract drawn up under advice of the ITU and its attorneys as being a contract which would afford them protection even under the Taft-Hartley law, that is, as much protection as could be had, and preserve the union. Therefore from October 1, 1947, the International Typographical Union would have approved and did approve any contract that carried with it all that we considered to be the maximum of protection that we could get under the Taft-Hartley law. The delay in the acceptance of contracts by employers was caused by the knowledge that the Government was helping the employers to hold out giving us that maximum protection under that law.

Senator TAFT. Mr. Randolph, the court found, I do not know whether you agree with these facts:

Since August 22, 1947, the executive council has construed, interpreted it, and forced this policy—

the general policy declared before it—

by ordering, instructing, directing, and requiring the approximately 850 subordinate local unions of the ITU alternately to refrain from entering into any contract or to refuse to enter into any contract not terminable upon 60 days' notice contrary to the custom and practice theretofore prevailing in the industry which did not contain substantially the provisions of the Form P-6-A—

what is P-6-A that is referred to here?

Mr. RANDOLPH. Well, P-6-A is simply the form number of a form contract that was set out by the officers of the international union as advice to local unions as to what was legal under the Taft-Hartley law, and what they could collectively bargain for.

Senator TAFT. Do you agree that the facts that I read were correct, roughly speaking?

Mr. RANDOLPH. They are not facts and seldom are the full facts obtained from the bulletin of the American Newspaper Publishers Association from which you are reading.

Senator TAFT. I am reading from the opinion of Judge Swygert, the United States District Court for the Southern District of Indiana.

Mr. RANDOLPH. Whatever Judge Swygert wrote in his opinion is in his opinion.

Senator TAFT. Well, I know. I asked you whether those facts were agreed to, that far. I am going to come to one I know you will not agree to, but I wondered if that much was correct.

Mr. RANDOLPH. Again I do not want to litigate the cases, nor do I want to refer to anything that the worthy judge has found to be a fact.

We have our own opinions about it and if we had had the opportunity, and could have made a practical and effective appeal from his decision, we, of course, would have done so.

Now his interpretation as to whether or not our acts were in violation of the sweeping decision that he rendered in his injunction case caused him to write up what he considered to be the facts.

Senator TAFT. I read further from this:

The provisions of this form—

P-6-A—

including the 60-day determination clause and the statements and the conducts of respondents indicates that its purpose was to give a semblance of good faith to collective bargaining on behalf of subordinate bargaining unions proposing this form to employers while at the same time imposing closed-shop conditions upon those employers who signed such forms or alternately requiring employers to submit to conditions of employment unilaterally imposed by the subordinate local unions in line with the no contract of the ITU, which conditions of employment unequivocally required the employer to maintain a closed shop.

Would you agree with that statement?

Mr. RANDOLPH. Not in the least, Senator, not in the least. Just let me call your attention to the fact that the collective-bargaining policy itself provides as follows. Bear in mind, Senator, that the unilateral action referred to came after a period of 60 days of bargaining without results, and the local unions had a right, and I still say they have a right, to provide their own wages and conditions if they cannot arrange them through collective bargaining in 60 days. The employers undoubtedly have that right and have been exercising it.



If they cannot agree in 60 days, they put up their own conditions, "You can work or get out," but the collective-bargaining policy stated:

We realize this policy may bring some disappointment to our employers because it provides for unilateral action. It may be possible for those employers—

Senator TAFT. You mean the collective-bargaining policy?

Mr. RANDOLPH. Let me finish the quotation, Senator. Do not interrupt to destroy it, because it is an important point.

Senator TAFT. Where are you reading from?

Mr. RANDOLPH. Page 102, section 1, the next to the last paragraph of the collective-bargaining policy.

We realize this policy may bring some disappointment to our employers because it provides for unilateral action. It may be possible for those employers who do not approve the policy to prepare unilaterally a set of conditions of appointment that would be satisfactory.

It was not anything but the conclusion of what must be done after 60 days of compulsory collective bargaining under the Taft-Hartley law, and if the employer has the right after complying with the provisions of the law and bargaining for 60 days, to fix the wages and working conditions as he sees fit, I say the union has likewise that authority, and I say we have it without recourse to any law.

We have exercised it for a hundred years, and I say that nothing in the law can take away from a union the right to prescribe the conditions under which its members will work.

Senator TAFT. Well, my only point—I am not questioning that, Mr. Randolph. I am only trying to make the point that except for your refusal to comply with the law, there would have been no strikes as there were no strikes in the other printing industries, the industries dealing with the same employers.

Mr. RANDOLPH. We have never refused to comply with the law. We have refused to accept your interpretation of the law. We have refused to accept Mr. Denham's interpretation of the law, and we have a perfect right under the procedure of law to go forward under the various steps that lead to a decision.

Senator TAFT. Surely, that is right. You have refused to accept the decision of the United States district court.

Mr. RANDOLPH. We have accepted and complied with it implicitly.

Senator TAFT. Well, but you do not agree with the findings of the court as to what you have done.

Mr. RANDOLPH. Why, of course, we do not agree with the findings of the court, and you as a lawyer, if you did not agree with the findings of a court, would advise your clients to appeal to the highest Court in the land to have that act properly interpreted, whatever it might be.

Senator TAFT. That is right.

Mr. RANDOLPH. This case or any other.

Senator TAFT. You are a lawyer yourself; are you not, Mr. Randolph?

Mr. RANDOLPH. Well, that is debatable, Senator.

Senator TAFT. The general evidence put in here by the Secretary of Labor as to the number of strikes shows that the number of strikes in 16 months, the number of workers engaged or affected, the number of man-days lost in 16 months before the Taft-Hartley law was  $7\frac{1}{2}$  million man-days. In the 18 months after,  $2\frac{1}{2}$  million man-days, in other words, a reduction of about one-third the previous condition.

That is just the opposite, I take it, from the experience of the International Typographical Union; is it not?

MR. RANDOLPH. Well, I am always at a loss when you start to read figures, Senator.

Senator TAFT. Well, I mean that in general the number of people involved is about one-third in the 18 months' period after as in the 16 months' period before, and I am asking you whether the opposite was not the fact in the case of the International Typographical Union.

MR. RANDOLPH. That is hard for me to follow, but I will say this: that we have had more people on the street because of strikes under the Taft-Hartley law than we had for many a year before, running back clear to 1921.

Senator TAFT. And is not that because you were striking against the law while other unions throughout the country did not strike against the law?

MR. RANDOLPH. No, Senator; that is not a fact, and I will give you a fact that will disprove your idea on that if you are open to a fact. I will point out to you our experience with the New York employing printers in the commercial field.

The local union had bargained for months on trying to arrive at a settlement and was unable to, and under our laws when a local union requests authority to strike, they have to request that authority from the international executive council, and the president has to, in person or by proxy, investigate the cause of the dispute and report to the executive council before any strike sanction is given. In that capacity I went to New York and discussed with the New York commercial employing printers the basis of a contract.

I spent 1 week at that, at the conclusion of which we had arrived at a point where the international union would approve a contract for the operation of this commercial printing industry in that city.

Everything was settled except the matter of hours and wages. Mind you, all of these so-called Taft-Hartley difficulties were resolved at the conclusion of a week's negotiation, except wages and hours.

The union adopted that group of contract provisions with the exception of wages and hours as their proposal in collective bargaining. On the same day the employers association adopted the same as their proposal for a contract except for wages and hours, and during that week the employers in that city had unilaterally posted notices that the workweek would be increased by  $3\frac{3}{4}$  hours, and our men were being paid on that unilaterally determined amount of hours per week, so that when the union adopted the proposal approved by the international union except wages and hours, it was doing it under the handicap of having maintained themselves at work under a unilateral increase in hours by the employers.

The result was that the international union approved strike sanction in the city of New York on that very same day and a strike for hours and wages ensued for a period of 2 weeks and 2 days, when the employers agreed that they would revert to the proper workweek and they would continue to negotiate on the matter of wages and hours, which in a few weeks was settled to the satisfaction of both sides.

That is a complete disproof of the idea that there was any strike for the simple matter of striking against the act. That is a complete disapproval of it as all the other strikes we have engaged in are similar proof of that particular fact.

Senator TAFT. Well, it seems to me your testimony, your own statements, the findings of the court all support the general statement that this was a strike against the law and brought on by yourself, but you have a perfect right to do it. I am only trying to answer this charge that the officials of the Government who try to enforce the law are subject to some criticism for trying to do so. That is my principal interest in that.

Mr. RANDOLPH. Well, I am afraid, Senator, you are looking at it through a jaundiced eye.

Senator TAFT. Mr. Randolph, coming to the question of whether the closed-shop provision should be in the contract—

Mr. RANDOLPH. Sir?

Senator TAFT. Coming to the question whether the closed-shop provision should be in the law, that is really the question which this committee is primarily concerned with, and your testimony in general is in favor of that closed-shop provision. Do you think it should be permitted?

Mr. RANDOLPH. By all means, Senator.

Senator TAFT. And you are not satisfied with the union-shop provision?

Mr. RANDOLPH. No; I am not at all satisfied with the so-called union-shop provision.

Senator TAFT. You heard the testimony last night that 17 States have adopted a similar law outlawing closed shops. You think they are wrong. You think that is the wrong policy.

Mr. RANDOLPH. There is not any question about it.

Senator TAFT. Have you had a contest in any of those States on those clauses?

Mr. RANDOLPH. I do not recall that we have engaged in any litigation in the States, no. There may have been some. Some local unions may have done it, but if it has come to my attention I do not remember it.

Senator TAFT. The printers trade, Mr. Dunnagan testified here—Mr. Henry, I guess, gave the testimony that I was referring to—some of the unions still reserve the right to impose working conditions unilaterally:

For example, the general laws of the International Typographical Union fix the ratio of apprentices to journeymen, set overtime rates, lay down rigid rules for hiring, discharging, provide for a closed shop, define standards with respect to seniority, and establish rules of conduct. The foremen must be members of the union. Although all of these matters are of vital importance to us—

that is, the employers—

none of them are bargainable or even subject to arbitration. In other words, such union laws have been constantly narrowing the area of bargaining by preventing employers and locals in their negotiations from arriving at any agreement unless the employer is willing to agree to all the miscellaneous rules of the international.

Is that a fair charge against the international or the ITU?

Mr. RANDOLPH. I doubt that it is a fair charge, as you say, in view of my earlier testimony as to the content of our book of laws, and the fact that we have established the general laws of the ITU affecting economic conditions as a floor for collective bargaining.

It is true that they are not subject to arbitration or will we concede any one of the provisions mentioned in that book of laws, in the general laws affecting the Nation-wide conduct of our members.

Mr. Henry has not been operating a union shop long enough to absorb much of that tradition.

Senator TAFT. I am trying to get to the question of what we should do. I mean, I am quite prepared to consider a modification of the rule about the union shop if we can get the same protection that I think is necessary for people who want to go to work, but it is true that these laws provide, section 2, article 3:

No local union shall sign a contract guaranteeing its members to work for any proprietor, firm or corporation, unless such contract is in accordance with international law and policy and approved as set by the international president.

Is that correct?

Mr. RANDOLPH. That is right, that means approved as in compliance with the international law.

Senator TAFT. Yes. I mean you have the job of interpreting the international law.

Mr. RANDOLPH. That is right.

Senator TAFT. You do not assume further power to just arbitrarily disapprove a contract?

Mr. RANDOLPH. Not at all. The international executive council interprets the law of the union. I suppose in examining the contracts that come in, that duty is performed by myself or someone to whom I delegate the work, and if the contract or the proposal for a contract is in accord with the law, we can only approve it as being in compliance with the law, not as to the sufficiency.

Senator TAFT. What happens to the local union if it signs a contract anyway and it is not in accord with the international law?

Mr. RANDOLPH. Well, nothing so far has happened to any union. The book of laws has always provided that the executive council might take up the charter for any violation of the law on the part of the local union, but so far as I know the matter of discipline has not yet been exercised. We do have the authority to exercise it if we find it necessary.

Senator TAFT. Now, if the employer just will not agree to one of these laws incorporated by reference in the contract, then what happens?

Mr. RANDOLPH. Well, he does not get a contract.

Senator TAFT. Does that mean a strike then?

Mr. RANDOLPH. It might or might not. The condition may be satisfactory as to operation, but he may not want to agree to it in the contract.

Senator TAFT. Supposing he will not agree to it in substance at all, supposing he will not agree to do it informally, formally, or any other way?

Mr. RANDOLPH. If it is operative in the composing room and there is no violation of that, we do not strike.

Senator TAFT. Well, I know, but suppose there is a violation, suppose he says, "Here is one of those rules I think is unreasonable. I will not agree to it. I will not carry it out." Then what happens?

Mr. RANDOLPH. Well, the question of what the local union wants to do about it is discussed by the local union. If they want to strike about it, they have got to get a three-fourths vote and they have to get sanction of the executive council of the ITU on whether or not they can strike.

Senator TAFT. Well, if they do not strike or if they submit to the employer's refusal to do this, then they are subject to ejection from the international, I suppose.

Mr. RANDOLPH. Well, if they are too far offside, but printers do not get too far offside. They will test things a little bit, you know, strain your patience, but they do not get too far offside.

Senator TAFT. How many union printers are there altogether, how many members in your union?

Mr. RANDOLPH. About 89,000.

Senator TAFT. And how many nonunion printers would you say there were?

Mr. RANDOLPH. I do not know, Senator.

Senator TAFT. Can you guess? I just want to get a general idea.

Mr. RANDOLPH. No; I really do not know.

Senator TAFT. I mean, what proportion of printers are organized?

Mr. RANDOLPH. That I do not know.

Senator TAFT. You have no means of telling?

Mr. RANDOLPH. No, sir.

Senator TAFT. In some cities it is practically complete? Practically all of the printers belong to the union?

Mr. RANDOLPH. A few.

Senator TAFT. That was the testimony here, that in some cities they were highly organized and in others they were not.

Mr. RANDOLPH. There may not be over a dozen in a city or in a town and they may be all organized, but in the larger centers there are quite a few nonunion shops.

Senator TAFT. Are you trying to extend the union shop?

Mr. RANDOLPH. Oh, certainly, we are always trying to organize the printers, any employees in our field, but not the union shop as you refer to it; the "union shop" of the Taft-Hartley law.

Senator TAFT. That is, the essence of your interest results in your control over the admission to the union and to the printing trades, where you operate over everybody under the rules of the union; is that right?

Mr. RANDOLPH. Well, we admit freely those whom we regard competent enough and of good character. We admit them if they meet those qualifications.

Senator TAFT. Now let me read you some of these laws because I think it is important to this whole question of the closed shop to know what the practice is. Section 1, article 1:

Apprentices shall not be less than 16 years of age at the time of beginning their apprenticeship. They will be listed by the secretary of the subordinate union and they shall serve an apprenticeship period for 6 years before being admitted to journeymen membership in the union.

Under that rule, I think there is some provision for some advancement, perhaps.

An apprentice may be upgraded when he has shown he has applied himself sufficiently to his studies to warrant advancement.

That requires, ordinarily, however, 6 years apprenticeship, is that it, before any man can ever become a member of the union?

Mr. RANDOLPH. Yes, for membership in the union, except for apprentices who are proficient enough in their work and in their grades, in their course of lessons in printing to be upgraded, and they may be so upgraded and obtain journeyman status earlier.

Senator TAFT. I notice under section 9:

Apprentice members shall not have the privilege of voting.

So for 6 years these men are in the printing trade controlled by the union without any privilege of voting. Is that right?

Mr. RANDOLPH. Well, for the first year after they are hired by the employer, they have no union status at all.

The beginning of the second year they may be accepted into apprentice membership. If it were not for the Taft-Hartley law, they would have to be accepted into apprenticeship membership, and then they only——

Senator TAFT. "Apprentice members shall not have the privilege of voting." That is the privilege of the——

Mr. RANDOLPH. Yes, but neither do they pay all dues. They only pay a per capita tax. It takes care of the record-keeping, Union Printers Home dues, and so on.

Senator TAFT. So in this democratic set-up, still there are thousands of men who are not entitled to vote.

Mr. RANDOLPH. Oh, it is not a matter of depriving people of the right to vote who are entitled to it. Apprentices never have been accorded the rights of journeymen. They are learning the trade and it is the same thing as people under 21 who do not vote in this country.

You are depriving millions of young fellows of the same age as our apprentices from voting in civil elections.

Senator TAFT. Your apprentices may be a good deal over 21.

Mr. RANDOLPH. They may be.

Senator TAFT. Practically all the veterans are over 21, I assume.

Mr. RANDOLPH. It is a regulation that has stood the test of many, many years.

Senator TAFT. You limit by section 21:

Local unions are required to fix the ratio of apprentices to the number of journeymen regularly employed in any and all offices, but it must be provided that at least two members of the subordinate union, aside from the proprietor, shall be regularly employed before an office is entitled to an apprentice.

For each additional five journeymen regularly employed, an additional apprentice may be permitted: *Provided*, When 4 apprentices are employed, an additional apprentice for each 10 additional journeymen may be employed: *Provided, further*. Nothing in this section shall be construed as prohibiting any subordinate union from inserting in the contract a provision that the total number of apprentices of any office shall be less than 4.

They cannot make it more than four, can they? They cannot change the limitations that you have imposed on the number of apprentices?

Mr. RANDOLPH. Well, as I stated before, the provisions here are the floor of bargaining, and the limitations on the number of apprentices as compared with journeymen up until the war were ample so as to provide a sufficient number of journeymen for the trade. Our records indicate there was something like 8 percent of our members constantly working at less than full time, so that these regulations as to a floor for bargaining on apprentices have been proven over the years to be more than fair. It is simply for the purpose of not flooding the industry with more people than the industry can absorb.

Senator TAFT. Well, other industries are not limited that way. If every industry did that, we would have millions of people unemployed, would we not, Mr. Randolph?

Mr. RANDOLPH. You have them anyway. If the industry does not supply jobs, you have them anyway.

Senator TAFT. I am suggesting that this same thing, however it may have worked in the printing industry, if applied to every industry in the United States, would hold down the number of people and limit the right of people to go into the particular occupation they want to go into, to such an extent that it might force a seriously large amount of unemployment, might it not?

Mr. RANDOLPH. No, I cannot see that effect, because the unemployment will create a lack of jobs anyway or a lack of jobs create unemployment anyway, no matter whether they are union, open shop, closed shop, or any other shop. If there are no jobs, the men are unemployed.

Senator TAFT. Let me read you this. I dare say it comes from a prejudiced side. I think it is from Editor and Publisher.

#### PRINTER SHORTAGE

A survey by the Pennsylvania Newspaper Publishers' Association reveals an appalling shortage of manpower in the composing rooms of that State. It is probably duplicated in other States.

One hundred and twenty-nine dailies reported a need of 180 additional journeymen printers to man their composing rooms adequately and without overtime payments. The weekly newspapers reported a need for another 100 printers.

This shortage of printers would be bad enough if publishers could see an end to it sometime in the future. But according to the P. N. P. A. survey, there will never be sufficient manpower under the present apprenticeship program.

There are about 250 apprentices in the daily shops. Under the 6-year training program about 40 become journeymen every year. The survey reveals an average age of 47 among journeymen and actuarial death rates show more than 40 leaving employment every year. In other words, the supply of printers is not keeping up to the demand.

Is that a fact or do you dispute that?

Mr. RANDOLPH. Well, without agreeing that it is a fact, I would say that the figures themselves defeat the accusation that is made. Here they describe 129 shops and they need 180 men. That is less than a man and half per shop, and the requirement sought is enough men to work without overtime, and that is something that is entirely unreasonable when business is brisk, and overtime is worked throughout the country generally. We have never undertaken to supply sufficient men so that there would be a journeyman available at any time the employer wanted him for a day's work. That would be wholly unreasonable and supply a surplus of printers that would be a drug on the market.

Senator TAFT. So the union assumes to say how many printers are needed and how many printers are not needed under this policy, does it not?

Mr. RANDOLPH. No, it does no such thing.

Senator TAFT. You are not saying that for various reasons you think there should not be any more printers?

Mr. RANDOLPH. No, not at all.

Senator TAFT. Is not that right?

Mr. RANDOLPH. Not at all, Senator. This deals only with the matter of apprentices and has nothing to do with the number of men admitted to the union every year who have not been apprentices in the typographical union, men who have learned the trade in non-union offices. There are many of those added to our rolls, but the information published in Editor and Publisher is always warped

and if it is not warped when they get it, they will warp it before they publish it.

Senator TAFT. Mr. Randolph, you said that your time now on the average through the country as a whole was 37½ hours. That is straight time, is it not?

Mr. RANDOLPH. Yes, sir.

Senator TAFT. Would you tell us how many hours have actually been worked on an average by printers in the United States in 1948?

Mr. RANDOLPH. I cannot tell you the details of that kind, but I can point out that we collect a percentage of wages that goes to our pension and mortuary funds and that total amount of money that we collect, figured on a percentage basis as compared with how much the money would be if everybody was working full time at the scales of the various unions, indicates that they have been in the past few years working as much as 5 percent over full-time wage rates.

This is not too excessive. Now some places obviously with an excess of work will work more overtime than that.

Senator TAFT. While you exclude people who want to be apprentices from entering the industry, the men in the industry on the average works, we will say 2½, something like 2 hours overtime on an average throughout the United States. Is that right?

Mr. RANDOLPH. Well, I would not say how many hours. I am giving you the only source of information we have, and it is on a dollars and cents basis. We do not presume to keep track of all of the internal affairs of the shops. We cannot do that, you know.

Senator TAFT. Are not these restrictions really imposed in order to keep people out of the trade so that those who are in get better pay? Is not that correct?

Mr. RANDOLPH. No, that is a very unfair way of looking at it. We have always supplied a sufficient number of journeymen to man the industry through our apprentice training and through our organizational efforts, but we have not assumed to supply enough to give a man adequate supply of printers that would prevent the working of overtime.

That would be wholly unreasonable. Now it is our hope that the industry can operate profitably and on a balanced basis without too much unemployment, and that is the purpose of the ratio of apprentices to journeymen.

Over a great many years we have found out what that ratio is. We have provided for it as a floor to bargaining in our laws, and if we make a contract with any employer, it must be on that basis, and I say again that we have a perfect legal right to do so.

Senator TAFT. The effect of the closed shop is to give you the power—you may have the right, but the effect of the closed shop is to give you the power—to keep people out of the printing trades if you think, in your opinion, without review by anybody, that there are enough people in the trade.

Mr. RANDOLPH. I do not think that is a fair——

Senator TAFT. Is not that a necessary conclusion?

Mr. RANDOLPH. I do not think so, Senator.

Senator TAFT. Section 4:

All persons before entering the trade as apprentices shall first be approved by the local union.



Now a young fellow thinks printing is a good thing. He wants to go into printing and he goes around and applies to the local union. How long a waiting list is there? What is the basis of deciding if A can be taken as an apprentice and B cannot be taken as an apprentice?

Mr. RANDOLPH. He does not apply to the local union, Senator.

Senator TAFT. "Shall first be approved." To whom does he apply?

Mr. RANDOLPH. He applies to the foreman of the composing room for a job the same as he would if there were no unions at all. The employer hires the apprentice in the first place, but he is subject to this joint regulation, that is, it is almost a joint effort and not by the union, because if you read those laws you will find that the laws provide for a joint committee of employers and members of the local union to operate the apprentice regulations. Wherever the employers will do that, that is done. Where they will not, the union committee does it.

Senator TAFT. The international law which you say is binding and must be incorporated by reference says:

All persons before entering the trade as apprentices shall first be approved by the local union. They must pass a technical examination given by the union's apprentice committee. A physical examination must also be made by a qualified medical examiner, approved by the local union. The medical and other examinations must show fitness and adaptability to the trade. The physical examination shall be entered on the medical certificate, printed on the reverse side of the application for apprentice membership which shall be filed and used as such at the beginning of the second year of apprenticeship as provided in section 7.

Mr. RANDOLPH. That is after the apprentice has worked for a year, and he has been hired by the employer. That regulates whether or not after a year's probation he is mentally and physically fit to continue in the printing business and learn the trade, bearing in mind, Senator, that it is the union that takes care of the people when they become incapacitated from age or disability, and not the employers, who do nothing whatsoever to take care of the wreckage of the industry.

Senator TAFT. I am only trying to show the actual conditions as are evidenced here. I notice that—

Every person admitted as an apprentice member of the local union at the beginning of the second year of apprenticeship shall subscribe to the following obligation: "That I will at all times support the laws, regulations, and decisions of the International Typographical Union."

He cannot, apparently, question the decision of the International Typographical Union as you question the decisions of the United States district court. He has got to accept those provisions.

Mr. RANDOLPH. He certainly can. He can appeal to the duly constituted authorities in the union with regard to any decision that may be made affecting his interests.

Senator TAFT. The foremen in your industry are members of the union, are they not?

Mr. RANDOLPH. That is right, and have been since time immemorial.

Senator, it may be interesting to you to know that we had the closed shop long before anybody ever talked about a closed shop, or a union shop, simply by the fact that the foremen employed union people and union people worked only for union foremen and you had

a closed shop. Now that is the human right they have regardless of all the legislation you can imagine.

Senator PEPPER. Will the Senator yield?

Are the foremen members of the union or not?

Mr. RANDOLPH. They are and they always have been.

The CHAIRMAN. Well, has there been any change since the Taft-Hartley law on that?

Mr. RANDOLPH. Well, I do not know of any, sir.

The CHAIRMAN. In your union organization?

Mr. RANDOLPH. Of course under the Taft-Hartley law the employer can employ a nonunion man for any purpose. The requirement that he be a member of the union is the only requirement as regards the foremen. The employer can hire any member to be his foreman and he can fire him at any time he wants to without any contest on our part.

The CHAIRMAN. Has that become general or has anything like that been done very much?

Mr. RANDOLPH. I do not know of a single instance where an employer attempted to put in a nonunion foreman except shortly after Taft-Hartley was adopted a small plant out in Michigan somewhere, I believe, or Wisconsin, the employer hired a nonunion foreman. I think there were some eight or nine men involved in the shop, and the minute he did that eight or nine men left not only the shop but the city and went to work elsewhere, with no argument at all. They just packed up and left.

Now that is the only incident I recall where any nonunion foreman was employed.

Senator TAFT. Have you any idea about the waiting list? You say that the foreman decides whether Mr. A is taken as an apprentice, or Mr. B, who applies for the job.

Mr. RANDOLPH. The foreman makes that decision in the first instance.

Senator TAFT. And he is a member of the union?

Mr. RANDOLPH. And he is a member of the union.

Senator TAFT. Have you any idea how long this waiting list is?

Mr. RANDOLPH. I never heard of a waiting list.

Senator TAFT. You think if more people could get jobs, there would not be any?

Mr. RANDOLPH. Well, Senator——

Senator TAFT. There would not be any applications?

Mr. RANDOLPH. Well, Senator, here is a well-established union that has a good reputation, that has established better wages and conditions than most. Why would not a favorable position like that attract the attention of those who are trying to make a living?

Senator TAFT. I am assuming it would.

Mr. RANDOLPH. You are assuming it would. Well, now, how would that same question apply to some big institution that was not running under any union conditions at all? Is there a waiting list in those places? Are you concerned about whether those people get jobs or whether they do not in nonunion places, and when they do not, what do you do about it?

Senator TAFT. They take just as many people as they can employ. The publishers are prohibited from taking as many people as they

want to employ and can employ. They are limited in their number very clearly.

I mean I am only trying to show the fact. They are limited in the number of apprentices they can take, whether they want more or do not want more, and they say they want more, the people who have testified here. That is all I know about it.

Mr. RANDOLPH. Well, Senator, the fact of the matter is that the employers generally, in the contracts that they make with local unions, do not take advantage of training as many apprentices as our minimum conditions, or maximum conditions in the law prescribe. They do not care to have that many apprentices around because it means the training of them, and it means that journeymen have to spend some of their time training apprentices and a lot of employers do not care to do that, and when you asked Mr. Dunnagan what the situation in Chicago was as regards apprentices, he was silent, and the emphasis on the employers in St. Louis agreeing to only two apprentices as a maximum in any shop indicates that they did not want any more than two in each shop rather than that the union was trying to restrict them unfairly to a small number of apprentices, and let me say to you that the situation in Chicago where Mr. Dunnagan operates a shop and where he should know how many apprentices he employs or can employ is simply that by contract they have agreed for a maximum of six in a shop except for two more that they can have by way of one as a machinist apprentice and one as a monotype apprentice, so he can have eight in his shop in the city of Chicago and have by agreement so arranged, while in St. Louis they have arranged for two. But why did Mr. Dunnagan or Mr. Henry mention a couple of instances where there was a very small number? Obviously to prejudice the situation.

Senator TAFT. Well, this Editor and Publisher, I agree may be prejudiced, but I do suppose that they represent the position of the employing printers in Pennsylvania. That is a reasonable conclusion; even if it is wrong, even if they are wrong, still they must not have just made that on their own.

Mr. RANDOLPH. Well, when I have accused publishers of having their positions represented by Editor and Publisher—and I have done it a number of times—I have had the specific denial, especially in New York and Chicago, that Editor and Publisher represents their position, that they have no connection with it and they do not authorize it to print anything on their part, so they just volunteer to do this, perhaps for their own purposes.

Senator TAFT. I would like to have inserted here all of the general laws of the I. T. U. as they appear in your 1949 laws. Just as an example of other laws which are, as I understand it, frozen, which nobody can get a contract with unless they agree to—section 11 of article III says, and these are only examples. I have just gone through them:

Local unions must incorporate in contracts a provision that all composing room work appertaining to printing and the preparations therefor, shall be done by journeymen or apprentices, and must further provide for the elimination of all so-called miscellaneous or composing room helpers by an agreement that as vacancies occur they shall be filled (if needed) by journeymen or apprentices.

That is section 11.

Mr. RANDOLPH. Yes.

Senator TAFT. Section 12 says:

It is the unalterable policy of the International Typographical Union that all composing room work or any machinery or process appertaining to printing and the preparations therefor belongs to and is under the jurisdiction of the International Typographical Union. Subordinate unions are hereby directed to reclaim jurisdiction over and control of all composing-room work or any machinery or process appertaining to printing and the preparations thereof now being performed by nonmembers.

The employer must agree to that rule if he signs a contract at all, is that right?

Mr. RANDOLPH. That is right.

Senator TAFT. Has that produced any jurisdictional strikes with other unions?

Mr. RANDOLPH. Almost none. The fact of the matter is laws of that kind are adopted as presented to a convention after some local union has not been holding up its end in maintaining the trade or the craft, and has allowed some of our work to slip off to other so-called miscellaneous or partially trained people not members of the union, and that was simply to have a law on the books whereby if they do not do what they ought to do the ordinary disciplinary measures might be applied.

I know of none that has been applied to any such union, but there is no other way for any union to preserve itself than to prescribe the area over which its members will seek employment and maintain employment.

There is no other way of satisfactorily determining how a union will live unless it itself determines that area.

Senator TAFT. I do not object to the "unalterable policy." What I suggest is that to make every employer sign a contract that he agrees to every international law and, therefore agrees to this, necessarily may get him into serious trouble before he gets through with somebody else.

Mr. RANDOLPH. Well, it has not, Senator, and in the printing trades these lines of jurisdiction have been thoroughly well understood and, as a matter of fact, up until 1892, all of the printing trades workers were in the International Typographical Union.

At that time, the pressmen desired to have an international union of their own. They thought they had grown up to the point where they could function better as a union, and the International Typographical Union permitted them to withdraw and form an international organization. The relations have been friendly.

In 1894 the bookbinders did likewise. In 1903 the stereotypers did the same, and in 1906 the photoengravers did that so that the five international printing trades unions were once a part of the International Typographical Union, and there has not been over all of these years any cause for worry about the jurisdiction of the several unions in the printing trades.

Senator TAFT. Section 13 says:

Subordinate unions shall incorporate in proposed contracts a clause providing for holidays with pay; annual vacations with pay; severance pay of not less than 2 weeks' pay for each year of priority in the office of all members affected by suspension or mergers, hospitalization and pay allowances for sickness or accident; and severance pay of 2 weeks' pay for each year of continuous priority for situation holders laid off to reduce the force.

Those features are practically removed from collective bargaining. They must be in every contract or the employer cannot get a contract, is that right?

Mr. RANDOLPH. That is absolutely not so, as the wording of the section you have just read indicates. It has been considered a matter of international policy that those are good things to bargain for, and the section refers to the inclusion in "proposed contracts" and local unions are directed to bargain for those things.

Senator TAFT. Those things are still open to bargaining?

Mr. RANDOLPH. Absolutely, and it so states in the law, to be in proposed contracts.

Senator TAFT. Section 14 states:

Subordinate unions shall provide in proposed contracts that night work shall be paid for at not less than 10 percent over the day scale.

Mr. RANDOLPH. That is another proposed contract provision that they should propose, propose these things, and try to accomplish them by collective bargaining.

Senator TAFT. But they can waive them? You think they have power?

Mr. RANDOLPH. All that means is that they must try to get them.

Senator TAFT (reading):

Subordinate unions must include in contracts or commitments a provision that members may absent themselves from the shop during voting hours on primary and general election days without being subject to discipline.

Is that a general all-day holiday, or what is it?

Mr. RANDOLPH. What section is that?

Senator TAFT. Section 23. It is not very important. Section 23 provides that they may absent themselves from a shop during voting hours on primary and general election days.

Mr. RANDOLPH. Well, in some States it is compulsory.

Senator TAFT. That must be included in the contract.

Mr. RANDOLPH. Yes, in some States it is compulsory by law to have it.

Senator TAFT. I move, Mr. Chairman, that we recess until 2:30.

Senator PEPPER (presiding). So ordered.

(Whereupon, at 12:05 p. m., the committee adjourned, to reconvene at 2:30 p. m., of the same day.)

(Pursuant to the foregoing colloquy, the Book of Laws of the International Typographical Union was submitted as follows:)

## BOOK OF LAWS OF THE INTERNATIONAL TYPOGRAPHICAL UNION

Effective January 1, 1949

### PROTECT YOUR MEMBERSHIP AND BENEFITS

Every member is required to pay dues and assessments for any given month on or before the tenth day of the next succeeding month. (Section 1, article vii, bylaws.) The member who does not comply with this provision of the bylaws is delinquent. Delinquent members may be prevented from working in union offices and are not eligible for any of the benefits of the International Typographical Union, except that the mortuary benefit may be paid where death occurs within the 30-day period following expiration of a current working card.

A member becomes suspended for nonpayment of dues when he is 4 months in arrears. Suspension does not await or depend upon action by the local union. Suspension is automatic, and results simply from the member's failure to pay

dues and assessments as required by law. It occurs on the tenth day of the month in which the member becomes 4 months in arrears.

Suspended members may be reinstated as provided in sections 12-15, article XVI, bylaws. The suspended member who works at the trade within the jurisdiction of a local union while under suspension is not eligible for reinstatement and can only regain membership by making new application.

A suspended member who reinstates as provided in the bylaws restores his continuous membership as of the date of his last initiation, but he is not eligible to apply for admission to the Union Printers Home or for the old-age pension within a period of 1 year after date of reinstatement; and if death occurs within 90 days after reinstatement, the mortuary benefit cannot be paid.

## CONSTITUTION, BY-LAWS, GENERAL LAWS, AND CONVENTION LAWS OF THE INTERNATIONAL TYPOGRAPHICAL UNION AND THE UNION PRINTERS HOME, TOGETHER WITH THE JOINT AGREEMENT MADE WHEN ORGANIZING THE INTERNATIONAL ALLIED PRINTING TRADES ASSOCIATION

(Compiled and published by Woodruff Randolph, president, and Don Hurd, secretary-treasurer, of the International Typographical Union, Indianapolis, Indiana, 1949)

### CONSTITUTION

#### ARTICLE I. JURISDICTION

SECTION 1. This body shall be known as the INTERNATIONAL TYPOGRAPHICAL UNION OF NORTH AMERICA. Its jurisdiction shall include all branches of the printing and kindred trades, other than those over which jurisdiction has been conceded by agreement. In it alone is vested power to establish subordinate unions of printers (and all other skilled employees not otherwise herein excepted) mailers and kindred trades, and its mandates must be obeyed at all times and under all circumstances. To the International Typographical Union of North America is reserved the right to fix, regulate and determine all matters pertaining to fellowship in its branches of the printing and kindred trades; while to subordinate unions is conceded the right to make all necessary laws for local government which do not conflict with the laws of the International Union. The International Typographical Union reserves the right to reestablish jurisdiction over any branch of the industry when the vital interests of the union are affected. The Executive Council is hereby authorized to take such action when deemed necessary to the welfare of the International Typographical Union.

SEC. 2. A charter may be issued to eight or more printers, or mailers, in any city or town. Only one English-speaking subordinate union in any distinctive craft shall be chartered in the same place; but a charter may be granted to printers or mailers of, and working in, a foreign tongue, and such printers or mailers may join an English-speaking union in any place where a union in their mother tongue does not exist.

SEC. 3. The distinctive names of the several subordinate branches shall be: Of the printers, typographical union; of the mailers, mailers' union; and of other allied crafts or trades, if such there be, the distinctive name of each branch.

SEC. 4. All charters granted by the International Typographical Union shall be in form as follows:

#### CHARTER

##### INTERNATIONAL TYPOGRAPHICAL UNION

To All to Whom These Presents Shall Come:

Know YE, That the International Typographical Union of North America, established for the purpose of effecting thorough organization of the craft, and composed of subordinate unions and members in different sections of the country, doth, upon proper application and under conditions herein provided, hereby grant unto -----  
and to their successors this charter, for the establishment and future maintenance of a subordinate union at -----  
to be known as Union No. ----- of -----

Now, the conditions of this charter are such, That said union forever and under any and all circumstances shall be subordinate to and comply with all the requirements of the constitution, bylaws, and general laws or other laws of the International Typographical Union as they may from time to time be altered or amended: That said union shall for all time be guided and controlled by all acts and decisions of the International Typographical Union as they may from time to time be enacted: That should the subordinate union above chartered take advantage of any powers, privileges, or rights conferred under the laws as they may exist at any time, said action shall not prevent the International Typographical Union from recalling, amending, changing, or abolishing any such powers, privileges, or rights.

So long as the said union adheres to these conditions this charter to remain in full force; but upon infraction thereof, the International Typographical Union may revoke this charter, thereby annulling all privileges secured hereunder.

IN WITNESS WHEREOF, We have hereunto set our hands and affixed the Seal of the International Typographical Union, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_\_, Secretary and Treasurer; \_\_\_\_\_, President.

## ARTICLE II. LAWS

SECTION 1. The International Typographical Union shall exercise complete and unrestricted authority to define its jurisdiction; enact, enforce, and amend, as provided in its constitution and bylaws, all laws for the government of the International Union, its subordinate unions, and its officers and members throughout its entire jurisdiction.

SEC. 2. The laws of the International Typographical Union shall be comprised in:

(a) The constitution shall contain an outline of the fundamental principles, policies, and purposes of the organization; declare the jurisdiction of the International Union and subordinate unions; define the duties and salaries of officers; provide for conventions and fix the basis of representation; establish an obligation for members; provide for appeals and penalties; authorize traveling and withdrawal cards; provide for an official publication and the Typographical Union label; regulate all matters pertaining to dues and assessments or the raising of revenue.

(b) The bylaws shall contain all laws relating to membership in the International and subordinate unions; qualifications and election of officers and their specific duties; for the government of subordinate unions and members; charges and trials and appeals; qualifications and election of delegates; auditing of accounts and reports relating to the institution, maintenance, and administration of a system of benefits; providing for the care of diseased, aged, and infirm members; and all laws for internal government of the International Union.

(c) The general laws shall contain only any and all laws relating to contracts and scales of prices; conditions of employment; and the relation of subordinate unions and individual members to the employer.

(d) The convention laws shall contain laws, rules of order, committees, etc., for government of sessions of the International Union and its deliberations.

SEC. 3. The constitution shall only be amended by referendum vote, in the manner hereinafter set forth.

SEC. 4. Bylaws and general laws may be enacted by the convention of the International Typographical Union, but shall in nowise conflict with the constitution, or any part thereof.

## ARTICLE III. CONVENTIONS

SECTION 1. The convention of the International Typographical Union shall be held annually on the Saturday preceding the third Monday in August at such place as the delegates in convention assembled may designate. All the arrangements for the same to be made by and at the expense of the International Typographical Union: *Provided*, On the years when the convention is held at Colorado Springs the convention shall convene on Saturday preceding the second Monday in September.

## ARTICLE IV. REPRESENTATION

SECTION 1. Subordinate unions are entitled to representation in conventions of the International Typographical Union according to the following apportionment:

Unions with one hundred members or less, one delegate; more than one hundred and less than five hundred members, two delegates; more than five hundred and less than one thousand members, three delegates; one thousand members, four delegates; and for each additional two thousand members, one delegate. Two or more subordinate unions, having a membership of less than one hundred members each, may combine and elect one delegate, the certificate of a delegate so chosen to be signed by the president and secretary of each of the unions he represents.

SEC. 2. Each delegate shall be entitled to one vote, and no proxies shall be allowed.

#### ARTICLE V. OFFICERS AND ELECTIONS

SECTION 1. The elective officers of the International Typographical Union shall be a President, a First Vice-President, a Second Vice-President, a Third Vice-President who shall be a mailer, a Secretary-Treasurer, a Board of Auditors consisting of three members, such number of delegates to the American Federation of Labor as this body is entitled to by law, one delegate to the Canadian Trades and Labor Congress of Canada (who must be a member of one of the Canadian unions), such number of nominees as may be necessary to fill vacancies in the membership of the Union Printers Home corporation, and an Agent to the Union Printers Home.

SEC. 2. The elective officers of the International Typographical Union shall be nominated by the local unions and elected by the membership in a manner which shall be specifically set forth in the bylaws.

SEC. 3. The term of office of all elective officers, except auditors, shall be for two years, or until their successors are elected and qualified. One auditor shall be elected at each biennial election for a term of six years. No person while serving as auditor shall accept any other office or employment in this union. The term of office of the elective officers, other than auditors, chosen at the May election shall be from July 15 for a full term of two years. Members of the Board of Auditors' terms of office shall begin November 1.

#### ARTICLE VI. DUTIES OF OFFICERS

##### THE PRESIDENT

SECTION 1. The President shall attend and preside at all conventions of the International Typographical Union during his term of office; he shall at all times exercise a general supervision over all officers of the International Union; he shall make his official residence in the city of Indianapolis, and shall give his entire time to the duties of his office; he shall have authority, should he become satisfied that any officer is derelict in the performance of any duty, or has been guilty of any dishonest act, to suspend such officer from his official position. He shall be *ex officio* the nominee of the International Typographical Union for the office of President of the Union Printers Home corporation, and one of the delegates to the American Federation of Labor. He shall perform such other duties as appertain to his office or as may be required by law.

##### THE VICE PRESIDENTS

SEC. 2. The First Vice-President shall assist the President in the discharge of his duties, and shall perform the duties of President in his absence, death, incapacity or resignation from office. He shall attend all sessions of the International Typographical Union. He shall make his official residence in Indianapolis, and shall devote his entire time to the business of this union.

SEC. 3. The Second Vice-President shall assist the President in the discharge of his duties. He shall attend all sessions of the International Typographical Union. He shall make his official residence in Indianapolis, and shall devote his entire time to the business of the union.

The Third Vice-President shall perform such duties as may be assigned to him by the President or the Executive Council.

##### THE SECRETARY-TREASURER

SEC. 4. The Secretary-Treasurer shall attend all conventions of the International Union, and shall devote his entire time to the business of this union; he shall, in connection with the President, establish an office in the city of Indianapolis, which shall be the official headquarters of the International Union,



and where all books, records, etc., shall be kept; he shall be the custodian of the funds of the International Union, and shall, under the direction of the Executive Council, deposit all funds of the International Union in some responsible bank or banks in said city; he shall give bond with a solvent guarantee company as surety payable to the President as trustee for the International Typographical Union and its members in the sum of \$50,000 previous to assuming office, which bond shall be paid for by this union and shall be approved by the Executive Council; he shall also be secretary of the Executive Council, and perform such other duties as may be required by law. He shall be *ex officio* the nominee of the International Typographical Union for the office of Secretary-Treasurer of the Union Printers Home corporation. Any bond executed by a guarantee company to the President as aforesaid shall insure to the successors of such President as trustee for the International Typographical Union and its members, and for any breach of such bond the President as trustee for the International Typographical Union and its members is hereby authorized to bring suit in his name as such President for the benefit of the International Typographical Union and its members.

#### THE EXECUTIVE COUNCIL

SEC. 5. There shall be an Executive Council, consisting of the President, the First Vice President, the Second Vice-President, the Third Vice-President and the Secretary-Treasurer, which body shall have general supervision of the business of the International Union and of subordinate unions.

#### THE BOARD OF AUDITORS

SEC. 6. The Board of Auditors shall convene at International headquarters on the second Monday of July and January each year, and its duties shall be to audit the books and accounts of the Secretary-Treasurer of the International Typographical Union and the officers of the Union Printers Home corporation, closely examining all items of receipt and expenditure. The auditors shall have power to employ at the expense of the union any necessary expert assistance and shall be required to disallow all expenditures not duly authorized. The report of the auditors, showing the condition of the books and accounts, attested by a notary public, shall be published in The Typographical Journal next following completion of the audit. If such audit should show any important error, or any defalcation, or misappropriation of funds, the President, with the consent of the Executive Council, shall immediately suspend the officer or officers responsible therefor and proceed at once legally to secure the union or the Home corporation from loss. Compensation for the auditors shall be as fixed by sections 2 and 3, article viii, constitution.

#### THE AGENT

SEC. 7. It shall be the duty of the Agent, in the event of the Union Printers Home corporation neglecting or refusing to comply with the provisions of the deed under which the land on which the Home is situated was transferred, or disobeying any of the orders of the International Typographical Union, to enter upon and take full possession of the property as the custodian of the International Typographical Union: *Provided*, That it shall be the duty of the Agent to attend one meeting of the Board of Trustees during his tenure of office.

#### REPRESENTATIVES

SEC. 8. The President shall have power to appoint such number of representatives as he deems to be necessary to transact the business of the International Typographical Union. Before commissions are issued to representatives appointed by the President their appointment shall receive approval of a majority of the Executive Council: *Provided*, The President shall have sole authority to make temporary appointments in cases of emergency where the representative is required to act as proxy for the President. Representatives appointed by the President, with the approval of the Executive Council, shall hold office for a period of two years, or until the expiration of the current term of office of the President, who makes the appointment: *Provided*, That the President, with the approval of the Executive Council, may remove any representative at any time such action is deemed necessary. Representatives shall perform such duties as are assigned to them by the President, under the direction and control of the President. For such time as they are required to devote to the business

of the International Union the compensation and traveling expenses of representatives shall be fixed by the Executive Council, in accordance with sections 2 and 3, article viii, constitution. Representatives who are regularly assigned under the provisions of this section shall be allowed a vacation of three weeks with pay each year.

#### ARTICLE VII. VACANCIES IN OFFICE

SECTION. 1. If for any reason there occurs a vacancy in the Executive Council, official notification of such vacancy shall be sent to secretaries of all subordinate unions within seventy-two hours after such vacancy occurs, and a special election shall be held the first Wednesday after the expiration of ninety days from date of vacancy: *Provided*, When there remains less than nine months of the time of office, the vacancy shall not be filled. In a special election to fill a vacancy the name of any member otherwise eligible receiving the endorsement of twenty subordinate unions shall be printed upon the ballot, which shall be prepared thirty days prior to the date of such special election. Only endorsements received previous to the time herein fixed for printing ballots shall be accepted to establish eligibility. In the event of a vacancy in the office of Secretary-Treasurer the First Vice-President shall perform the duties of the office until the vacancy is filled as herein provided.

SEC. 2. When for any reason a vacancy occurs in any elective office, other than the Executive Council, such vacancy shall immediately be filled by the Executive Council. Where the term of office in which the vacancy occurs extends beyond the next regular International election such vacancy shall be filled for the unexpired term at such regular election. A member chosen by the Executive Council to fill a vacancy shall hold office until a successor is elected, as above provided, and qualifies. In filling a vacancy in a general election the qualifications of candidates shall be the same as are provided for candidates for a full term.

#### ARTICLE VIII. SALARIES AND EXPENSES

SECTION 1. The salary of President, Vice-Presidents, and Secretary-Treasurer, in full for the services rendered by each of said officers during the term of office, shall be the sums following: For the President, for services rendered as President of the International Typographical Union and as President of the Board of Trustees of the Union Printers Home, \$10,000 per annum; First Vice-President, \$7,500 per annum; the Second Vice-President, \$7,500 per annum; Third Vice-President, \$300 per annum; and Secretary-Treasurer, for services rendered as Secretary-Treasurer of the International Typographical Union and as Secretary-Treasurer of the Board of Trustees of the Union Printers Home, \$10,000 per annum.

SEC. 2. The compensation of any officer, other than President, First Vice-President, Second Vice-President or Secretary-Treasurer, or any member performing service under direction of the President or Executive Council, shall be set by the Executive Council.

SEC. 3. When any officer or member is required to perform service away from his home, he shall be allowed in addition to the amounts set forth above, first-class railroad fare or transportation fare by plane in emergencies by the shortest route to and from his destination, and actual hotel expenses; *Provided*, That an itemized bill shall in all cases be rendered.

SEC. 4. The President, First Vice-President, Second Vice-President and Secretary-Treasurer shall, on their first election, be entitled to traveling expenses from their home to the headquarters of the International Union, and also on return at close of official term. They shall also be allowed a vacation of thirty days in each year.

#### ARTICLE IX. REVENUE AND FUNDS

*(An amendment which temporarily reduces the rate of the pension and mortuary assessment became effective July 31, 1944. Words in the previous law temporarily stricken out by the amendment are printed in brackets; words added to the previous law are printed in italics. See Section 3 for time of reversion to previous law.)*

SECTION 1. The revenue of the International Typographical Union shall be derived as follows: A per capital tax of \$1.00 per month which shall include subscription for The Typographical Journal, to be paid by every member of the International Typographical Union except those members domiciled at the

Union Printers Home. The per capita tax, together with assessments as herein provided, shall be collected and transmitted to the Secretary-Treasurer of the International Typographical Union.

An additional assessment for the old age pension and mortuary funds according to the following classifications:

(a) Active members (including members working at the trade and seeking work at the trade)—Two [and one-half] percent upon total earnings.

(b) Active members not working at the printing trade (members whose cards are deposited with a subordinate union who follow other pursuits, and members not seeking work at the printing trade)—Two [and one-half] percent upon the minimum scale of the union with which member is affiliated.

(c) Proprietor members whose cards are deposited with a local union—Two [and one-half] percent upon the minimum scale of the union with which member is affiliated.

(d) Members employed by the union (local or International)—Two [and one-half] percent upon total earnings.

(e) Members in unorganized towns—Members holding traveling cards but not working at the printing trade, \$3.00 [\$3.75] per month.

(f) Members in unorganized towns—Members holding traveling cards who work at the printing trade as journeymen or foremen—Two [and one-half] percent upon total earnings.

(g) Proprietor members in unorganized towns—Members holding traveling cards and operating offices of their own—\$3.00 [\$3.75] per month.

(h) Sick and disabled members—Members incapacitated because of sickness or any disability shall be exempt from the pension and mortuary assessment during the period of such sickness or disability, but for not longer than three months; thereafter two [and one-half] percent upon the minimum scale of the subordinate union, but not more than \$1.75 per month during the period of disability. (See section 8, article vii, bylaws.)

(i) Pensioners—Members who draw the old age pension, 60 cents per month: *Provided*, That if a pensioner earns more than \$60 in any one month he must pay two [and one-half] percent on earnings as the pension and mortuary assessment.

(j) Members in military or naval service—Members drafted in the military or naval service of the United States or Canada; members in active service, either voluntary or conscripted, in the Army or Navy of the United States or Canada in time of war or national emergency decreed by the Congress of the United States or Parliament of Canada or who enlist for service in the army or Navy of any country that may be allied with the United States or Canada in a war for a common cause, shall be exempt from the payment of International Typographical Union assessments, beginning with the month of enlistment and ending with the month of discharge as determined by military records.

Members in military or naval service are required to pay I. T. U. per capita tax and local dues as the laws of the local union require.

SEC. 2. The pension and mortuary assessment shall be apportioned after receipt at headquarters, [one-third of one] *seventeen* percent to the mortuary fund and [two and one-sixth] *eighty-three* percent to the old age pension fund.

SEC. 3. It is further ordered the rates above provided shall remain in effect until such time as the reserve in the pension fund shall have reached the sum of \$2,000,000, when the rate of assessment shall revert to two and one-half percent upon earnings as in effect prior to this amendment.

SEC. 4. The per capita tax of the International Union shall be apportioned as follows: Fifty cents to the Union Printers Home Fund; the balance to the general fund, together with such additional revenue as shall be derived from the sale of charters and supplies to subordinate unions at prices fixed by law.

SEC. 5. International dues for each month shall be collected by subordinate unions and shall be transmitted to the Secretary-Treasurer of the International Typographical Union before the twentieth of the succeeding month. Unions failing to conform to these provisions shall be considered delinquent and debarred from benefits: *Provided*, That unions located so far from headquarters as to make it impossible for their dues to reach there within the prescribed time shall not be considered delinquent if their remittances bear postmark date prior to the fifteenth of the succeeding month.

SEC. 6. No member residing within the jurisdiction of a subordinate union shall be classified as an unattached member or permitted to pay dues and assessments as such to the International Secretary-Treasurer.

SEC. 7. The general fund shall be used to defray all expenses of the International Typographical Union except disbursements for the pension fund, the mortuary fund and the Home fund.

SEC. 8. On the death of each member in good standing, a death benefit shall be paid to the designated beneficiary in amounts as follows, except as otherwise provided by International law:

For a continuous membership of one year or less, \$50.

For a continuous membership of more than one year and less than two years, \$100.

For a continuous membership of two years and less than three years, \$150.

For a continuous membership of three years and less than four years, \$200.

For a continuous membership of four years and less than five years, \$250.

For a continuous membership of five years and less than ten years, \$300.

For a continuous membership of ten years and less than fifteen years, \$400.

For a continuous membership of fifteen years or over, \$500.

Any member who has been suspended from membership and subsequently reinstated, in accordance with the laws of the International Typographical Union, shall not be entitled to any benefit if death occurs within three months after such reinstatement.

SEC. 9. The mortuary benefit fund shall be used for the purpose of disbursing mortuary benefits to the designated beneficiaries of deceased members.

SEC. 10. All moneys to the credit of the Union Printers Home fund shall be transferred to the Secretary-Treasurer of the Union Printers Home corporation.

SEC. 11. The old age pension fund shall be used for the purpose of maintaining and disbursing pensions to aged and superannuated members.

SEC. 12. The Executive Council shall have the power and authority to transfer money of this union from one fund to another whenever deemed necessary to maintain the integrity of this organization.

SEC. 13. No convention or meeting, nor any official or member of the International Typographical Union of North America, shall have power to appropriate or use any moneys or securities in the treasury of this union, nor property or collateral in its possession or custody, for the purpose of bestowing upon any person or number of persons any gift of intrinsic value, granting any gratuity, or as payment for any intangible service rendered or claimed to have been rendered unless expressly authorized by referendum vote.

[On May 26, 1915, a date subsequent to the adoption of section 12, the members of the International Typographical Union voted affirmatively on the following questions in a referendum election:]

Shall the Executive Council of the International Typographical Union be authorized to expend such sums of money from the general fund of the organization as may be necessary to continue the conduct of the business of the International, such as payment for services of employees and representatives, strike benefits and special assistance when necessary, officers' and organizers' expenses, printing, publicity campaigns, convention expenses, as provided in the constitution, by-laws, general laws, convention laws and the agreement creating the International Allied Printing Trades Association as printed in the Book of Laws?

SEC. 14. There shall be a defense fund maintained at a minimum of \$500,000. A one-half of one per cent assessment shall be levied on total earnings of all active members (except sick and incapacitated members and pensioners) to establish the fund and shall be in effect for three months after the fund reaches \$500,000. When the balance in the fund falls below \$500,000 the assessment shall again be levied for three months. This fund shall be used for defense purposes.

#### ARTICLE X. PENALTIES

SECTION 1. The charter of any subordinate union which shall fail or refuse to pay its per capita tax and other moneys, or any part thereof, within three months after becoming due, shall be suspended. The Secretary-Treasurer shall give such derelict union thirty days' notice of the action to be taken.

SEC. 2. Any subordinate union which shall fail to make reports required by law or the Executive Council, or which shall neglect or refuse to obey any law or legal mandate of the International Typographical Union or Executive Council, may be fined or have its charter suspended by the Executive Council.

SEC. 3. Any officer of the International Union may be impeached by the Executive Council, and if the charges are proven shall be disqualified to further dis-

charge the duties of his office, and the vacancy shall be filed in accordance with the laws of the International Typographical Union.

#### ARTICLE XI. APPEALS

SECTION 1. All appeals from the decision of a subordinate union shall be submitted, in written or printed form only, to the Executive Council of the International Typographical Union (one copy of complete papers to be furnished the Executive Council; both appellant and respondent must retain complete copies to be used in case of appeals to convention), and decision rendered by that body. Should either party feel aggrieved at the decision of the Executive Council he shall have the right to appeal, in printed form only to the succeeding convention of the International Typographical Union, which judgment shall be final.

SEC. 2. Appellant and respondent shall furnish copies of papers in complete form to each other, and shall be entitled to submit replies to these original articles.

#### ARTICLE XII. OBLIGATION

SECTION 1. All subordinate unions shall have an article in their constitution which shall read as follows:

Every person admitted as a member of this union shall subscribe to the following obligation, which shall apply only to matters pertaining to the printing industry.

*I (give name) hereby solemnly and sincerely swear (or affirm) that I will not reveal any business or proceedings of any meeting of this or any subordinate union to which I may hereafter be attached, unless by order of the union, except to those whom I know to be members in good standing thereof; that I will, without equivocation or evasion, and to the best of my ability, abide by the constitution, by-laws and the adopted scale of prices of any union to which I may belong; that I will at all times support the laws, regulations, and decisions of the International Typographical Union, and will carefully avoid giving aid or succor to its enemies, and use all honorable means within my power to procure employment for members of the International Typographical Union in preference to others; that my fidelity to the union and my duty to the members thereof shall in no sense be interfered with by any allegiance that I may now or hereafter owe to any other organization, social, political or religious, secret or otherwise; that I will belong to no society or combination composed wholly or partly of members of the International Typographical Union, with the intent or purpose to interfere with the trade regulations or influence or control the legislation of this union; that I will not wrong a member, or see him or her wronged, if in my power to prevent. To all of which, I pledge my most sacred honor.*

#### OBLIGATION FOR DELEGATES

SEC. 2. The following obligation shall be administered to each and every International Typographical Union delegate immediately after the approval of the report of the Secretary-Treasurer:

*I (repeat name individually) solemnly swear (or affirm) that I do not now belong, nor will I belong at any time in the future to any society or combination composed wholly or partly of members of this International Typographical Union, or any other union under its jurisdiction, the intent and purpose of which is to interfere with the trade regulations or influence or control the legislation of this or any other union, or the selection or election of any officer or officers.*

#### ARTICLE XIII. TRAVELING CARD AND WITHDRAWAL CARD

SECTION 1. The International Union shall issue, in blank form, cards of appropriate design, to be known as the "Traveling Card," and the "Withdrawal Card," which shall be furnished subordinate unions at prices fixed by law, to be used by members in good standing on proper application being made therefor.

#### ARTICLE XIV. THE OFFICIAL PAPER

SECTION 1. There shall be published monthly by the Secretary-Treasurer a paper of thirty-two or more pages, to be nonpolitical and nonsectarian, and

to be known as "The Typographical Journal: Official Paper of the International Typographical Union of North America," which shall be, so far as practicable, the International Typographical Union's official organ of communication to subordinate unions.

#### ARTICLE XV. THE LABEL

SECTION 1. The label, stamp or device used, and intended to be used, by this Union, for the purpose of distinguishing the products of the labor of the members of this Union, shall consist of an imprint containing the words "Typographical Union Label," together with the name of the city or town in which is located the local union using said label. Said label shall be of the following design:



SEC. 2. This Union shall, through its principal officers, cause said label, stamp or device to be registered in all states and territories and provinces where registration is or may hereafter be authorized by law, and all registrations heretofore made of said label are hereby adopted and confirmed; and shall, through its principal officers, issue to local unions or subordinate bodies said label, stamp or device in such sizes as may be necessary and expedient.

SEC. 3. No subordinate union or combination of subordinate unions shall issue a label of different design than contained in section 1 of this article, nor shall more than one design be used in any jurisdiction.

#### ARTICLE XVI. AMENDMENTS

SECTION 1. Amendments to the constitution of the International Typographical Union may be enacted only by referendum vote of the general membership. Such amendments may be initiated only in one of three ways, as follows:

(a) The Executive Council may initiate and submit any proposition or amendment a majority of its members deems necessary. Such propositions or amendments to be published to the craft at least thirty days before taken the vote thereon.

(b) Convention may initiate any proposition or amendment a majority of the delegates deems necessary. Subordinate unions shall then discuss the proposed amendments, and at a date which shall be designated by the Executive Council, but which must be within three months from the adjournment of the convention, the proposed amendment shall be voted upon by the members of subordinate unions, and the vote in detail forwarded, under seal, to the Secretary-Treasurer of the International Typographical Union within ten days after the date set by the Executive Council for the taking of said vote, when the International President and Secretary-Treasurer, and one member of the local union, who shall be selected by the President of this body, shall canvass the vote and declare the result to the craft, and should a majority of the votes cast be in favor of the amendment it shall go into effect sixty days after the canvass of the vote on the same. (c) Any subordinate union may initiate any proposition or amendment and submit to other subordinate unions for endorsement. Whenever such initiative petition has been endorsed by 150 subordinate unions, the endorsement of such petition having been secured within three months from the date said petition was initiated, it shall be submitted to a vote of the general membership. The proposals as submitted for the endorsement of subordinate unions shall be published in the first issue of The Typographical Journal following the receipt of 150 endorsements by subordinate unions. The Secretary-Treasurer shall publish in the next issue after the three months have elapsed the full list of all unions endorsing any proposition or amendment. Within thirty days following such publication the proposal shall be submitted to a vote of the membership, which shall be taken on a day designated by the Executive Council, and canvassed in the same manner as amendments and propositions referred to the membership by a convention of the International Typographical Union. It shall be the duty of the Secretary-Treasurer to prepare ballots and submit any proposition or amendment initiated in either of the three ways provided: *Provided*, If for any reason the Secretary-Treasurer shall fail or refuse to prepare ballots and submit any proposition or amendment which has been properly initiated and endorsed,

the President of the International Typographical Union shall perform the function.

SEC. 2. Propositions submitted to subordinate unions for endorsement or to the membership for adoption as herein provided shall be drafted in proper form and shall include all sections or articles amended or repealed by such proposition: *Provided*, For this purpose amendments or propositions shall be deemed to be in proper form if their purpose is clear and the intent understandable. Laws or parts of laws to be repealed shall be placed in brackets, and amendments to existing laws and new laws shall be printed in bold-face type.

SEC. 3. The action of a subordinate union endorsing a proposition or amendment initiated by another subordinate union shall be irrevocable.

SEC. 4. All propositions or amendments adopted by the membership of the International Typographical Union, unless otherwise provided, shall be in force and effect sixty days after the canvass of the vote on the same.

SEC. 5. The by-laws and general laws adopted by a convention of the International Typographical Union shall become effective on January 1 next following. Propositions or amendments submitted to the membership by a convention, if adopted, also become effective on January 1 next following.

SEC. 6. Conventions of the International Typographical Union shall have power to enact by-laws and general laws for the government of the craft, but all laws involving increased taxation shall be submitted to a referendum vote.

## ARTICLE XVII. CONFLICTS AND CHANGES

SECTION 1. All laws and parts of laws in conflict with this constitution are hereby repealed or changed in accordance therewith, and the Secretary-Treasurer is hereby authorized to make necessary changes.

## BY-LAWS

### ARTICLE I. ALLIED PRINTING TRADES COUNCILS

SECTION 1. In a jurisdiction where more than one international union has issued charters, an allied printing trades council shall be formed, in pursuance of the provisions of the agreement between the five international unions of the printing trade.

SEC. 2. The agreement governing the International Allied Printing Trades Association and signed by the five international unions thereof provides "for the formation of an association for a joint ownership of the Allied Printing Trades Union Label," the objects of which "are to designate the products of the labor of the members thereof by adopting and registering a label or trademark designating such products."

The Executive Council of the International Typographical Union is hereby authorized and instructed to seek agreement by the other international unions of the Allied Printing Trades Association to a supplementary agreement, the object of which shall be to obtain the cooperation of all said unions for other economic purposes: *Provided*,

(a) The supplementary agreement shall be voluntary as to acceptance by local unions subordinate to the several internationals.

(b) Any international union of the association may, at any time, revoke its adherence to the supplementary agreement without in any way affecting the "agreement" heretofore in effect since 1911, or the rights of any union thereunder.

(c) Each international union adopting the supplementary agreement accepts the duty and responsibility of enforcing the obligations of any subordinate union thereof which may fail or refuse to perform any obligations it may have assumed under the terms of the supplementary agreement.

(d) The Executive Council of the several international unions, members of the association may, as deemed expedient, amend the supplementary agreement to better attain mutually satisfactory procedure for the joint negotiation and adoption of contracts and scales; joint action defense of the closed union shop; join action in organization work and in legislative activity affecting the graphic arts industry.

SEC. 3. The Executive Council is instructed to use every effort possible to bring about the elimination of the controversy involving jurisdiction over offset presses and plates.

SEC. 4. Where two or more subordinate unions of the International Typographical Union are represented in a local Allied Printing Trades Council either local

may call upon the Executive Council to decide questions of jurisdiction or international policy.

SEC. 5. Where dual unionism is involved the Executive Council may name the delegates of the local union to the local Allied Printing Trades Council or the Executive Council may bar delegates from a local union from participating in meetings and decisions of such local councils.

## ARTICLE II. AUDITING ACCOUNTS

SECTION 1. The President shall cause the books and accounts of the Secretary-Treasurer and the officers of the Home corporation to be audited twice a year, as follows: All accounts for the six months ending May 20, within fifteen days after that date; and for same period ending November 20, within fifteen days after that date. For this purpose he shall appoint certified public accountants, who shall make a thorough examination and shall submit a report to the President, who shall cause its publication in The Typographical Journal.

SEC. 2. If said report should show any errors of importance, or defalcation or misappropriation of funds of the Secretary-Treasurer, or of any officer of the Union Printers Home corporation, it shall be the duty of the President, with the consent of the Executive Council, to suspend such officer or officers; and he shall proceed at once legally to secure the International Typographical Union from loss, and in accordance with the bond or bonds of said officer or officers.

SEC. 3. The International Typographical Union shall have the right to cause the books and accounts of any Conference or League, composed of members of the union, to be audited where said organization collects or solicits for any other purpose than for maintaining its functions.

## ARTICLE III. CHAPELS

SECTION 1. It shall not be unlawful for chapels by majority vote to adopt a rule providing for fining a member of the chapel for nonattendance at chapel meetings when present in the office during the time said chapel meetings were being held.

SEC. 2. Members of a subordinate union, even though they constitute a majority of such union, have no right in chapel meeting to take any action amending, suspending, or in any way affecting the laws or contracts of such union.

SEC. 3. In all offices in which three or more members are employed a chapel shall be organized and a chairman elected. In cases of failure or refusal of a chapel to elect a chairman, it shall be the duty of the local president to appoint a member to act as chairman. The chapel chairman shall be recognized as the representative of the union in the chapel over which he presides and it shall be his duty to report to the president of the local union any violation of union law or provisions of the contract. Failure to perform the duties of the office shall render a chapel chairman liable to such penalty as the local union may apply in accordance with the laws governing charges and trials.

## ARTICLE IV. CHARGES, TRIALS AND APPEALS

### CHARGES

SECTION 1. Charges may be preferred against any member for any disreputable act, conduct unbecoming a union member, violation of laws of the local or International Union, or failure to observe provisions of the contract and scale of prices. Individual members may file such charges or officers of local unions may be instructed by majority vote of members present and voting at a stated meeting of the union to bring charges against a member.

SEC. 2. Charges may be filed against any officer of a local union for neglect of duty, failure to comply with the laws of the local or International Union, misappropriation of union funds or malfeasance in office.

SEC. 3. When a subordinate union is cognizant of the performance of a disreputable act on the part of a member not working within its jurisdiction, whether such act was committed within its jurisdiction or not, it is its duty to prefer charges against him before the union under whose jurisdiction he does work.

SEC. 4. Accusations or charges must be made in writing by a member of the union in good standing within thirty days of the time complainant becomes cognizant of the offense alleged.



SEC. 5. In all cases charges must be signed by the complainant and shall be sufficiently specific as to the provisions of union law violated and the alleged acts which constitute the basis of the charges to permit the defendant to prepare a proper defense. Two complete copies of the charges shall be delivered to the local president within the time limit provided in section 4.

SEC. 6. Within five days after charges have been received the local president shall cause to be delivered to the accused member a complete copy of the charges as filed.

SEC. 7. At the next stated meeting of the union the president shall present and cause the charges as filed to be read to the union. After discussion and consideration the following question shall be put to a vote by secret ballot: "Shall the charges as presented be deemed cognizable?"

SEC. 8. If a majority of the members present and voting record an affirmative vote a committee of five members shall be appointed by the presiding officer to investigate the charges, *provided*, local unions with less than 50 members may function with a committee of 3. Such committee shall give opportunity to all parties to the controversy to be heard. The accused member may waive the right to appear without prejudicing his interest.

#### TRIALS

SEC. 9. The investigating committee shall report its findings at the next regular meeting following the meeting at which it was appointed. A majority vote of members present and voting by secret ballot shall decide whether or not the charges shall be considered worthy of trial. If the charges are found worthy of trial the presiding officer shall appoint a committee of five to try the case, *provided*, local unions with less than 50 members may function with a committee of 3. If either party shall object to appointment, or to the personnel of the committee as appointed, a committee of five to try the case shall be drawn by lot from the members present, *provided further*, unions with less than 50 members may function with a committee of 3. The complainant, the accused and members who may be witnesses shall not be eligible to serve on the trial committee.

SEC. 10. The trial committee shall notify complainant, accused, and their witnesses of time and place of sitting. Both parties shall have right of counsel, who shall be members of the union. Either party may demand that witnesses shall be sworn by a notary public or official authorized to administer oaths. If either party shall fail to appear, unless excused by trial committee for cause, the trial shall proceed. The trial committee may adjourn its hearings from time to time, but all parties must be given due notice of time and place of all sittings.

SEC. 11. At the next stated meeting of the union after a verdict has been reached the trial committee shall report its judgment and the evidence to the union. After the trial committee's report has been read the accused shall have the right of defense before the union. The report of the trial committee, the evidence introduced, and any defense offered by the accused before the union shall be open for debate.

SEC. 12. Where the membership of a subordinate union is in excess of 1,000 the subordinate union may adopt regulations for the trial of charges different from the foregoing procedure: *Provided*, The verdict when rendered must be approved by secret ballot at a stated meeting of the union: *Provided, further*, That subordinate unions may establish discipline committees to investigate minor infractions of union law or the scale of prices; such committee may after a hearing, where all interested parties are afforded a fair opportunity to be heard, impose fines of not more than one day's pay for any violation. In all cases before a discipline committee complaints must be signed by the complainants and shall be specific as to the provisions of the law violated and the alleged acts which constitute the basis of the complaints to permit the defendant to prepare a proper defense. Penalties or other decisions of discipline committees are subject to appeal in accord with International law governing appeals.

SEC. 13. The presiding officer shall submit to vote of the members present the question of guilt or acquittal. Two-thirds vote of members present and voting by secret ballot shall be necessary to convict. If more than one offense has been charged the vote shall be taken separately on each charge in the same manner.

SEC. 14. If the charges or any of them be sustained, or if the accused pleads guilty, a vote shall then be taken on the penalty, if any, recommended by the trial committee, but this recommendation may be amended and the vote shall be

first upon the heaviest penalty proposed. It shall require three-fourths vote of members present and voting by secret ballot to suspend or expel. Any lesser penalty may be imposed by majority vote.

SEC. 15. Upon conviction for a first offense the maximum fine shall not exceed \$50, except in case of a member convicted of ratting, in which case an unlimited fine may be imposed as the penalty or part of the penalty. Where suspension is provided as part of a penalty against a convicted member the period must be fixed and no right shall be affected other than that he shall not work at the printing trade during the period of suspension. Priority standing and benefits of continuous membership shall be retained by payment of dues and assessments as not at the trade. He shall be reinstated automatically at the end of the period of suspension without payment of any fee except that he shall pay any fine that may have been fixed as a part of the penalty at time of conviction.

SEC. 16. All expenses incurred in connection with the trial shall be borne by the union in case of acquittal: *Provided*, Fees of counsel shall not exceed pay for time lost at the scale of the union.

SEC. 17. A member charged with deliberate ratting may be summarily expelled by the Executive Council in cases where the International Union is conducting a strike or organizational campaign without citing him to appear for trial or a subordinate union may expel a member for deliberate ratting without citing him to appear for trial if the report of the investigating committee is supported by three-fourths vote of members present and voting. A local union may expel any member of the International Typographical Union found guilty of ratting within its jurisdiction. Notice of such expulsion must be forwarded to the local union with which the expelled member was affiliated and to the Secretary-Treasurer of the International Union.

SEC. 18. When a union arraigns a member on any cause without its jurisdiction, and the party so arraigned has formerly been in good standing with the craft, it is the duty of said union to give him official notification of the charges preferred and allow him the privilege of defending himself in open meeting.

SEC. 19. When, through the action of a local union, a member is suspended and debarred from the right to work at the trade, and is subsequently proven guiltless of infraction of International or local laws, said local shall be compelled to remunerate, at its prevailing scale, such suspended member for the time lost while under suspension.

SEC. 20. The evidence of rats shall not be received in the trial of union men for any cause whatever, as they are under the ban of the union, and not recognized by it as honorable men. Evidence gleaned from the books and bookkeeper of an office should be considered good evidence on trial of a union man for violation of scale, unless surrounding circumstances or union evidence in rebuttal weakens or destroys it.

SEC. 21. No evidence shall be received or considered by a committee appointed to try charges except such as shall be offered at a regular hearing of the committee, at which all parties interested shall be, or shall have been, notified to be present.

SEC. 22. The accused may, if he so desires, waive any and all of the rights guaranteed to him by the constitution and bylaws; and upon such waiver the union may, by a majority vote, proceed to act. Nothing herein contained shall interfere with the appeal rights of the accused. The defendant to charges shall not be compelled to testify.

SEC. 23. A member charged with contempt of the union or a committee of the union shall be accorded full privileges of trial and upon conviction may be punished in the same manner as if convicted of another offense.

SEC. 24. Any member bringing charges against another which he fails to sustain by proper evidence may, by a two-thirds vote of the union, and without referring the matter to any trial committee, be censured or fined an amount equal to the expense of the trial, or both censured and fined.

#### APPEALS

SEC. 25. A member who has been convicted of any offense against the union or who believes his conviction was irregular or unjustified may appeal to the Executive Council by giving proper notice and following procedure governing such appeals.

SEC. 26. When a local discipline committee (authorized by section 12 of this article), or a local executive committee, has been rendered a decision or verdict

against a member or members, and appeal is taken therefrom, such appeal shall be acted upon at the next stated meeting of the subordinate union.

SEC. 27. When a subordinate union has taken an action or rendered a decision, any aggrieved member, members, chapel, or employer having a contract with said subordinate union, or any applicant for admission whose application has been rejected, may appeal as provided in the constitution and bylaws.

SEC. 28. Notice of intention to appeal to the Executive Council must be filed in writing with the president of the subordinate union with which the appellant is affiliated within five days after the action is taken or the decision rendered by the subordinate union.

SEC. 29. Appellant shall prepare and file with the president of the subordinate union two complete copies of appeal brief with all evidence and argument within twenty days after the action or decision of the subordinate union against which appeal is made.

SEC. 30. The respondent union shall have prepared two copies of its reply and file same with the president of said subordinate union within twenty days from date appeal brief is received. One complete copy of the reply containing all evidence and argument shall be immediately transmitted to appellant.

SEC. 31. Appellant shall have five days from date reply is received in which to prepare and file, as above provided, a rebuttal brief. If no rebuttal brief is filed as above provided, one copy each of the original appeal and reply briefs shall be transmitted to the Executive Council and a decision rendered upon the evidence and argument contained therein.

SEC. 32. If appellant files rebuttal brief as above provided, respondent shall have five days from date it is received in which to prepare and file surrebuttal, in which event the case shall be considered closed and copies of all documents transmitted to the Executive Council by the president of the subordinate union. If a surrebuttal is filed by respondent, copy of such surrebuttal shall also be furnished to appellant on the date all documents are transmitted to the Executive Council.

SEC. 33. The President of the International Union may extend the time in which either party is required to file argument and evidence in appeals to the Executive Council if, in his opinion, justice will be served thereby.

SEC. 34. When the contention of a member who has appealed to a subordinate union is sustained by action of such subordinate union and an appeal is taken to the Executive Council therefrom, the original appellant shall have the right to participate, or be represented by counsel, in preparation of respondent union's answer. Upon demand to the president of the subordinate union he shall be furnished with copies of all documents as transmitted to the Executive Council and he shall also be permitted to transmit to the Executive Council a reply to all evidence and arguments in the case.

SEC. 35. Where appeal is made against an action or decision of a subordinate union the action or decision of the subordinate union must be complied with by all parties pending decision by the Executive Council. In cases involving dues, assessments, fines, or other moneys assessed by the subordinate union against a member, a sum sufficient to cover the amount in dispute shall be deposited with the president of the subordinate union to be held in escrow until decision has been rendered by the Executive Council. When a subordinate union has rendered a verdict of censure, reprimand, suspension, expulsion, or revocation of membership, it shall not be enforced pending final decision if appeal be made as provided herein. Where a rejected applicant appeals in accordance with the provisions herein and the Executive Council sustains the appeal the local union shall obligate the applicant upon payment of proper fees and dues.

SEC. 36. All parties to an appeal, in cases where documents are submitted, are required to make affirmation as to the truth of their statements. The written signature of the parties in interest shall be considered as such affirmation.

SEC. 37. Either the appellant or respondent may appeal against decision of the Executive Council, or any subordinate union affected by such a decision or action of the Executive Council may appeal to the next succeeding convention of the International Typographical Union.

SEC. 38. The party or subordinate union desiring to appeal against a decision or action of the Executive Council shall give to the International Secretary-Treasurer notice of such appeal within sixty days of the date of the decision or action against which appeal is to be made: *Provided*, No such appeal shall be considered by a convention unless notice as herein provided shall have been given prior to the first day of the month in which the convention is held.

SEC. 39. Copies of all documents, evidence, and arguments must be transmitted to the International Secretary-Treasurer within sixty days after notice of appeal shall have been given. All appeals to a convention must be in printed form and only the briefs, documents and evidence upon which decision of the Executive Council was based shall be presented to and considered by the committee on appeal: *Provided*, That appellant shall have the right to include in his printed appeal an argument based upon the decisions of the Executive Council from which the appeal is made.

SEC. 40. The appellant shall furnish to the International Secretary-Treasurer on or before the first day of the convention at which such appeal is to be considered, not less than four hundred copies of the appeal and the International Secretary-Treasurer shall supply to each delegate in attendance a copy of such appeal.

SEC. 41. In cases of appeal by a subordinate union, a member, or members against a decision or action of the Executive Council the decision or action of the Executive Council shall be complied with unless and until such decision or action shall have been reversed by the convention: *Provided*, If such decision or action of the Executive Council be not so reversed the decision or action shall be final and there shall be no further appeal therefrom.

SEC. 42. Any subordinate union, member, or members refusing to accept and observe a decision or action of the Executive Council pending appeal to a convention, or any subordinate union, member, or members refusing to accept and observe decision of a convention upon a matter that has been appealed shall be subject to summary expulsion by the Executive Council.

SEC. 43. Any subordinate union, member, or members not satisfied with the judgment of the court of last resort (the convention of the International Typographical Union) and who seeks redress in the courts, shall be required to deposit with the Executive Council an approved bond sufficient to cover the costs entailed by the International Typographical Union in defending the action, and the same procedure shall be followed when any member or members shall seek an injunction against the International Typographical Union or its officers or any of its subordinate unions.

SEC. 44. In no case shall a member appeal to a civil court or any other agency for redress from an action by the union until he has exhausted his rights of appeal under the laws of the International Union. Any member who violates this section shall be liable to summary expulsion by the Executive Council.

#### ARTICLE V. CHARTERS

SECTION 1. Application for charters must be made upon the form prepared therefor, which may be had upon request to any International representative, or will be furnished upon application to the President or Secretary-Treasurer of the International Typographical Union.

SEC. 2. Any person under the ban of expulsion in a subordinate union cannot become a charter member of another union.

SEC. 3. A union applying for a charter is required to submit its constitution and bylaws for examination and approval by the International President, also a list of its officers and members.

SEC. 4. Each person signing an application for a charter shall pay the sum of \$5, \$2 of which shall be transmitted to the Secretary-Treasurer of the International Typographical Union in payment for the charter and outfit provided for in subsection d of section 4, article viii, bylaws.

SEC. 5. A charter shall contain as the official designation of the union the name of the city or town in which it is located and none other.

SEC. 6. Where a city is absorbed in the corporation of another, and a union exists in both, the smaller union shall be merged into the larger.

SEC. 7. A subordinate union has not the right to erase the names of charter members (who may have ceased to be union members from any cause) from their charters and substitute others in their places. The charters (as to names) must remain as issued by the International Union. This shall not operate to prevent a union attaching to such charter, on a separate sheet, a sketch of the delinquency or degeneracy of any party whose name appeared thereon as a charter member.

SEC. 8. It is competent for a subordinate union to take a charter from any state within which it may be located, in order to protect itself in the possession of property and other legal rights, but the charter of the International Union is

supreme, and governs in all craft matters where it does not conflict with the laws of the state or nation.

SEC. 9. A majority of a union cannot by vote surrender its charter. A charter may be granted to eight applicants, and a union cannot be dissolved while there are that number of members in good standing desirous of retaining the charter: *Provided*, That with consent of the Executive Council, two unions may consolidate by a two-thirds vote of each union, and, *further provided*, that thirty days' notice of the proposed vote shall be given at a meeting of each union concerned.

#### ARTICLE VI. DISCIPLINE—GENERAL

SECTION 1. In offices under the jurisdiction of the International Typographical Union the foreman is the only person to whom to apply for work, and any person securing work, or attempting to secure work, in any department under the jurisdiction of the foreman, in any other manner than by application to said foreman, shall be deemed guilty of conduct unbecoming a union man, and, upon conviction before a trial board, shall be suspended or expelled, as three-fourths of the members may determine: *Provided*, That nothing in this section shall be construed to conflict with the rights of members holding situations to employ competent substitutes without consultation or approval of foremen.

SEC. 2. It shall be unlawful for any member of any subordinate union of the International Typographical Union to belong to any secret organization, oath-bound or otherwise, the intent or purpose of which shall be to influence or control the legislation or the business of such local union or of the International Typographical Union, the selection or election of officers of such local or International Union, or the preferred or other situations under their jurisdiction. Any member guilty of a violation of this section shall, upon conviction of a first offense, be deprived of the right to hold office in the local or International Union; and upon conviction of a second offense, shall be expelled. Any member belonging to, or aiding in the formation of, any organization dual to the International Typographical Union may be summarily expelled by the Executive Council without formal trial upon proof of such fact satisfactory to the Executive Council. The failure (within 30 days of date of demand) of any member to declare under oath, his affiliation or nonaffiliation with an organization declared dual by the Executive Council of the International Typographical Union, shall be deemed as proof that the member is affiliated with a dual organization. Any subordinate body of the International Typographical Union may be dissolved, or its charter may be revoked, or the International Typographical Union Executive Council may take full and complete charge of all the affairs of such organization when it is deemed necessary to protect the jurisdiction of the International Typographical Union. Notice by first-class mail to last known address of any member from whom the Executive Council demands a declaration under this law shall be sufficient.

SEC. 3. Cashing of strings, or assignment of wages for any purpose, where an ultimate profit is received by members or others, is forbidden everywhere within the jurisdiction of the International Typographical Union, nor shall any member act as an agent for outside usurers. Printers' benevolent societies are not included in the operation of this act, if the society does not charge interest in excess of 1 percent per week. Upon the presentation of charges, local unions shall try to issue and decide whether this section has been violated, and impose such penalties as may be deemed necessary.

SEC. 4. No member of a subordinate union shall be allowed to use the name or number of a local union or the name of the International Union as an imprint on commercial printing, or for any other purpose, without the sanction of the union.

SEC. 5. Any member of a subordinate union having wronged a sister union by the misappropriation of funds shall have his card revoked by the union of which he is then a member, upon such union being notified of the misappropriation, under seal of the union, unless the delinquency is paid and forwarded to the union in which he is a defaulter.

SEC. 6. Any member of a union engaging to take a situation in the jurisdiction of another union at a lower rate of wages than the scale of prices of the latter union calls for, is guilty of ratting, even though the situation may not be obtained.

SEC. 7. It shall be a misdemeanor, punishable by expulsion, for one union man to make application for the position of another union man in any office.

SEC. 8. Any member who shall counterfeit or imitate the International due stamp or working card, or knowingly use such imitations of counterfeits, shall be fined not less than \$50, or be expelled from this union, as the circumstances may warrant, after trial has been accorded the accused.

SEC. 9. It shall be unlawful for a member of any subordinate union of the International Typographic Union to perform a day's work in any office under the jurisdiction of the local union to which he or she may belong, and at the conclusion of the day's labor proceed to engage in active work at the case, or in a mechanical capacity, in another printing office in which said member is interested, financially or otherwise.

SEC. 10. When a vote is taken in a meeting of a subordinate union on a reduction of a scale, alteration of a scale, or any dispute as to the construction of a scale or in relation to the surrender of a charter, it must be by secret ballot, with white and black balls provided for the purpose—the white balls meaning "yea" and the black ones "nay." Any union violating this law shall be fined \$10 for the first offense, and for the second offense its charter shall be suspended by the Executive Council, subject to the approval of the next session of the International Union.

SEC. 11. No member of a subordinate union shall be entitled to vote upon a proposed change in the scale of prices unless he has been a member of said union for the previous six months, and is in good standing, except where the union has been in existence for a shorter period; and it shall require a three-fourths vote, by secret ballot, of such qualified members present at the meeting to change an established scale of prices.

SEC. 12. It shall require a majority vote at a regular meeting, or a special meeting called for such purpose, to adopt a recommendation of a scale committee or to accept a counterproposal received through conciliation.

#### ARTICLE VII. DUES AND ASSESSMENTS

SECTION 1. Every member, except those residing at the Union Printers Home, who shall be considered members in good standing (and who, upon admission to the Home, may take the option of accepting payment of funeral and burial expenses, not to exceed \$125, in the Home plot as a burial benefit and be exempt from mortuary assessment or claim the full benefit to which they would be entitled on payment of 35 cents each month, which amount must be paid and reported to the Secretary-Treasurer monthly), shall pay the International Typographical Union per capita tax and assessments for any given dues month on or before the tenth day of the next succeeding calendar month, and on payment of the same shall receive from the local union in which membership is held an International working card or due stamp so canceled by the local officers as to indicate the month or months for which International dues have been paid.

SEC. 2 The dues month of each subordinate union shall end on the last Saturday of the calendar month and members shall pay assessments for that dues month on all wages received during the dues month, regardless of the particular day of the week which may have been selected for pay day in any shop. Every calendar month having four Saturdays will be a four-week dues month and every calendar month having five Saturdays will be a five-week dues month.

SEC. 3. Every member must demand, and shall receive, on payment of the proper sum, due stamps or a working card for each month's dues paid. The card shall show the sum paid for per capita tax, local dues, old-age pensions and mortuary assessments, and such other assessments as may be levied by the local or International Union, and the date of said payments. It shall be optional with subordinate unions to choose either the adhesive stamps or working cards hereinafter mentioned, but in every instance an adhesive stamp shall be attached or a stamped working card issued for each month's dues paid, and the stamp or card canceled to show the particular month's dues paid.

SEC. 4. The secretary of each local union shall make an itemized report each month to the Secretary-Treasurer of the International Union, showing the amounts of local dues, per capita tax and assessments collected from each member, the date when each member paid his dues and the dues month for which payment was made. The names of members shall be arranged in alphabetical order in the itemized report, except that where collection is made by chapels, the report may be arranged in alphabetical order by chapels. The itemized report and the stamp report required by section 18, article xx, bylaws, for any dues month shall be transmitted to the Secretary-Treasurer of the International Union on or before the 20th day of the succeeding calendar month.

SEC. 5. In cases of members holding traveling cards and so situated as not to require active affiliation with any subordinate union, the per capita tax and assessments shall be collected by the proper officer of the union in which said traveling card is deposited or presented for renewal, and the amount so received shall be shown on the card issued by affixing International dues stamps in such a manner as to indicate the payment of monthly per capita tax and assessments in regular sequence; and the secretary of the union shall report to the Secretary-Treasurer the amounts collected for each month in the same regular sequence.

SEC. 6. Any member who is not in possession of an International working card for the current month, or to whose card International due stamps showing all dues up to the current month to have been paid, as provided in section 1, are not attached, shall be deemed as delinquent to the International Union, and shall not be entitled to any benefits or to be a candidate for any office in the International Typographical Union.

SEC. 7. Members of subordinate unions or members holding traveling cards shall stand suspended when four months in arrears for local or International dues or assessments. Members suspended for non-payment of dues shall have no standing in the organization and shall not be entitled to benefits.

SEC. 8. It shall be the duty of subordinate unions, on request of a member who is sick or disabled, and who shows that he is in destitute circumstances, to protect his membership in the organization during such sickness or disability, the local union to be reimbursed for this expenditure by the member benefited after recovery.

SEC. 9. Local dues shall be charged from the first day of each month, except in cases where the member has paid the current month's dues, or in instances where the percentage system applies. In cases where members deposit traveling cards showing International per capita tax to have been paid in advance, local unions when collecting dues shall allow full credit for the amounts so paid.

SEC. 10. No members of a subordinate union shall be allowed to pay dues in the jurisdiction of one union while working under that of another; and no subordinate union shall receive dues as aforesaid. Dues of right belong to the union under whose jurisdiction the party is working.

SEC. 11. No subordinate union shall have authority to assess its members for payment of life insurance premiums.

SEC. 12. Dues and assessments must be paid on all money deducted for group insurance, pensions of any nature, unemployment insurance, money received as a bonus, on vacation leave, gift or gratuity for services performed at the printing trade.

## ARTICLE VIII. DUTIES OF INTERNATIONAL OFFICERS

### THE PRESIDENT

SECTION 1. The President shall attend and preside at all conventions of the International Typographical Union during his term of office; he shall have the casting vote whenever there shall be an equal division on any question, except where he shall have voted on the call of the yeas and nays.

He shall require a faithful performance of duties on the part of all officers and a strict and businesslike manner of keeping all accounts, paying out money, and conducting correspondence.

He shall see that all moneys belonging to the International Union are properly deposited in responsible banks, in the names of the President and Secretary-Treasurer as such, and money shall be drawn from such banks only by check signed by the President and Secretary-Treasurer, and only then when both officers are fully satisfied that such money is lawfully and justly due the person or persons for whose benefit the check is drawn.

He shall, with the approval of the Executive Council, appoint all necessary representatives, shall oversee and direct the operations of representatives, and shall, when necessary, visit such place or places as may require his presence or personal attention.

He shall establish and maintain a statistical bureau in the International office for the purpose of compiling information and statistics relative to the printing trade and general economic conditions, such data to be at all times available for use by subordinate unions.

He shall direct and maintain a bureau of education, which, in addition to the preparation of educational material for apprentices, shall prepare and sell, to members only, a course in advanced composition and such other educational

material as may equip members to master new operations which come under the jurisdiction of the International Typographical Union.

He shall direct and maintain a label bureau, which shall aid subordinate unions in the work of creating a demand for the use of the union label upon all printed products and publications.

He shall be the representative of the International Typographical Union to the International Allied Printing Trades Association, and shall appoint such other representatives to the maximum number to which this union is entitled.

He shall, before accepting the official bond of any officer, be satisfied that such bond is valid and in proper form, and for that purpose he is empowered and instructed to take competent legal advice upon the matter; he shall in case of his mismanagement or misappropriation of any funds of this union by any official charged with the custody, collection, and disbursement thereof, at once proceed to collect the same from the official in default, or, in the event of the failure of such official to make good such deficiency, institute legal proceedings against such defaulting officer and his sureties.

Should inaccuracies appear in the report of the auditing committee of a local union, or if the International President has reason to believe there is a shortage or misappropriation of funds, he shall designate a representative to take charge of the financial affairs of such subordinate union and may appoint a certified accountant to make examination and audit the books and accounts of said union. The certified accountant so employed shall be authorized by the International President to take possession of all financial books, records, and accounts of said subordinate union and make such audit and file such report as directed by the International President. The report and findings of the certified accountant shall be filed with the president of the subordinate union by the President of the International Union. The president of the subordinate union shall proceed in the civil or criminal courts, or in accordance with the laws of the International union governing charges and trials, as the facts appear to warrant. The subordinate union shall bear the expense of the audit and prosecution of those responsible for the shortage or misappropriation.

SEC. 2. The President shall issue monthly a publication to be known as The Bulletin which shall contain statistical material; factual data; information helpful to local unions, the members thereof; to scale committees and boards of arbitration. There shall also be printed in The Bulletin decisions of the Executive Council rendered on appeals. Such official Bulletin shall not exceed forty pages in size and shall be supplied to the president and secretary of each subordinate union; to the chairman of any scale committee requesting the same and insofar as possible the chairman of chapels of ten or more members.

#### VICE-PRESIDENTS

SEC. 3. The Vice-Presidents shall perform such duties as are set forth in the constitution and as may be required by law. In performance of duties assigned by the Executive Council, as provided in section 3, article vi. of the constitution, Vice-Presidents shall be under the direction and control of the President.

#### SECRETARY-TREASURER

SEC. 4. The Secretary-Treasurer shall act as the financial officer of the International Typographical Union and as secretary of the conventions of this union.

(a) *Conventions.*—He shall have the reports of the officers of the International Typographical Union printed in pamphlet form, and a copy of such reports shall be mailed to every delegate-elect as soon as possible previous to the assembling of the convention; he shall publish in the July number of The Typographical Journal, as a part of the regular edition, the annual reports of the officers; he shall furnish each subordinate union, prior to the election of delegates, with two (or more where needed) copies of blank delegate certificates of election; he shall make a just, true and complete record of each and every day's proceedings, to be printed and laid on the desks of delegates each morning during the sessions of the convention; he shall immediately after the final adjournment, cause the same to be made up in the form of The Typographical Journal, and published with a regular edition of that paper at as early a date as possible; he shall, in connection with the President, compile and publish in uniform size, within sixty days following the canvass of the vote on amendments submitted to the membership after each convention, a Book of Laws, containing the Constitution, By-Laws, General Laws and Convention Laws of the International Typographical Union,



also the Constitution, By-Laws and Rules of Government of the Union Printers Home, and distribute copies thereof to local unions in sufficient numbers to supply their full membership.

(b) *Funds*.—He shall procure interest whenever possible on all funds deposited by him on the direction of the Executive Council, and cover the same into the treasury of the International Union; he shall have the custody of all bonds, to secure the deposit of the funds of the International Union; he shall draw moneys from bank only by check signed by the President and himself; he shall require all bills against the International Union to be itemized, and shall only pay such bills as are in accordance with the order of the International Union direct, or its laws, and after approval of the President; he shall have the books of deposit with all banks balanced at the end of each fiscal month; he shall submit all his books and accounts to the expert accountants twice a year; he shall send all receipts for money received from financial officers of subordinate unions to the disbursing officers of said unions, acknowledging, by postal or otherwise, the receipt thereof to president of such subordinate unions, stating what month the payment is for, the amount and by whom sent; he shall at least once each month transfer and pay over all moneys by him held to the credit of the Union Printers Home fund, to the Secretary-Treasurer of the Union Printers Home corporation, and shall take his receipt therefor; he is authorized to pay the assessments of the American Federation of Labor as they fall due; he is authorized to pay to the Canadian Trades and Labor Congress a per capita tax on all members of the International Typographical Union in good standing in the Dominion of Canada; he shall keep a file of the bonds of the fiduciary officers of subordinate unions and notify the president and secretaries of such unions that said bonds are about to expire thirty days previous to such expirations; and he shall keep at headquarters a set of records in which shall appear the names of all of the members of the International Typographical Union, together with the sum of money paid by each as per capita tax and assessments to the International Typographical Union in monthly sequence, as reported by the secretaries of subordinate unions, and these records shall show the standing of the members in the organization.

(c) *The Typographical Journal*.—He shall publish in The Typographical Journal: A sworn statement of the balances of his bank books of deposit monthly; a full monthly statement of receipts and disbursements of all kinds; on or before the first of each month a list of arrearages of subordinate unions, and if said arrearages are not paid within thirty days thereafter the presidents of all such unions shall then be officially notified; he shall exclude from the columns of The Journal all communications or other matter impugning the motives or reflecting upon the honesty of members of this union; he shall provide for the President and for each member of the Executive Council a department in which each of the officers, without interference or censorship, may discuss or present to the membership any matter or topic pertaining to the business or interest of the membership of this union: *Provided*, It shall be unlawful to use this department to promote or oppose the nomination or election of any candidate or candidates for International office, and it shall be unlawful to permit correspondence of a political nature to appear in The Typographical Journal.

(d) *Supplies*.—He shall furnish subordinate unions with bound copies of the Union Traveling Card, in books of 25, 50 or 100 cards, as may be desired, at the rate of \$3 per hundred, upon application; blank books for traveling cards received and issued, and blank applications for the mortuary benefit; he shall prepare a "charter outfit," to include books, blanks and seal, and a form of "Petition for Charter," and no charter shall be granted unless presented on this form.

(e) *Miscellaneous*.—He shall conduct all his business, correspondence, etc., in a prompt and systematic manner, keeping files, etc., of all documents, and copies of all correspondence; he shall have power to procure all necessary printing required by the officers in conducting the official correspondence and other business of the union, and shall employ such assistants as shall be deemed necessary by the Executive Council.

(f) *Membership Record and Register Number*.—He shall establish and maintain in his office a complete record of all journeymen active members of the International Typographic Union. This record shall contain the age of each member, the date of his initiation, where initiated; the date and cause of suspension or expulsion, the date of reinstatement or re-initiation together with the date of death and such other matter as may be deemed necessary by the Executive Council to determine the continuous membership of any member of the International Typographical Union. Every member shall furnish on a blank

provided for his use the date of his birth, the date of initiation and such other statistics as are necessary to show clearly the length of his continuous membership. The membership statements filed with the Secretary-Treasurer are only for the use and information of the officers of the International Union in the payment of benefits contingent upon continuous membership. The Secretary-Treasurer of the International Union is hereby authorized and instructed to refuse to make public the record of any member except as the business of the International Union may require. Every member shall be assigned a register number by the Secretary-Treasurer of the International Typographic Union, and he shall thereafter be officially known by such register number. Such books as are necessary for the use of local unions in keeping a proper record of their members, and the payments of dues and assessments made by such members shall be kept in stock by the Secretary-Treasurer of the International Typographical Union and sold to local unions at a price to be determined by the Executive Council; *Provided*, It shall not be obligatory upon the part of local unions to purchase their record books from headquarters. Any local union desiring to do so shall have the privilege of printing its own record books and arranging them so as to permit of the keeping of data in addition to that required by the International Union.

#### EXECUTIVE COUNCIL

SEC. 5. Meetings of the Executive Council shall be held on call of the President in such city at such place and time as the President shall direct for the transaction of such business as may be properly placed before the Executive Council for consideration. Such notice may be either verbal or written. Notice of meetings shall be given through the International Secretary-Treasurer and whenever so directed by the President, notice to three members shall be sufficient. At any meeting of the Executive Council three members, two of whom shall be the President and Secretary-Treasurer, shall constitute a quorum. The vote of three members of the Executive Council shall at all times be necessary to decide any question, approve or disapprove any matter properly brought before it for consideration and decision. Any action supported by three members shall be accepted as an action of the Executive Council of the International Typographical Union; *Provided*, The Executive Council shall not take action or render a decision which shall interfere with the duties or obligations specified for the President or Secretary-Treasurer in the constitution.

SEC. 6. Appeals and other questions requiring action by the Executive Council may be submitted individually to members in document form and the vote recorded in the same manner and with the same effect as hereinbefore provided.

SEC. 7. The Executive Council shall have jurisdiction over and shall decide all appeals against a decision or an action of a subordinate union; all disputes or differences arising between subordinate unions; controversies and differences between employers and subordinate unions.

SEC. 8. The Executive Council shall have authority to interpret and enforce contracts and agreements; interpret and construe the laws of the International Union and subordinate unions; and it shall have authority to enforce such interpretation and construction unless and until reversed on appeal, as herein provided. It shall have the power and jurisdiction to decide all questions properly brought before it relating to the business and affairs of the union. It shall have such further powers and perform such other duties as may be set forth in the constitution and laws.

SEC. 9. Any member affected by a decision or action of the Executive Council, or any aggrieved subordinate union, shall have the right to appeal to the next succeeding convention of the International Typographical Union.

#### REPRESENTATIVES

SEC. 10. It shall be the duty of each representative to correspond with or visit such town or places where no union exists and there are printers or allied craftsmen at work, as the President may direct, with a view to encouraging them to embrace unionism. He shall examine the books and business methods of such unions as he may visit, and shall recommend to said unions any changes that will tend to safeguard the finances or facilitate the business of the union; *Provided, however*, That no International representative shall take charge of the affairs of a local union until so requested by said subordinate union.

## ARTICLE IX. ELECTION OF INTERNATIONAL OFFICERS

## QUALIFICATION OF CANDIDATES

SECTION 1. The qualification of candidates for office in the International Typographical Union shall be as follows: 1. Membership in the International Union and in continuous good standing for at least one year previous to making a declaration as candidate and previous to the acceptance of the nomination ("continuous good standing" means that a member must have paid his dues and assessments each month as provided by International law), and freedom from delinquency of any nature to the International or subordinate unions. 2. Membership in a subordinate union which has paid per capita tax and discharged all other financial obligations due this International Union. 3. For Third Vice President, membership in a mailer's union.

## DECLARATION OF CANDIDACY

SEC. 2. Members of subordinate unions who desire to be candidates for office in the International Typographical Union shall announce such candidacy in the December and January issues of The Typographical Journal preceding the date fixed by law for the making of nominations. Candidates when making such announcements shall accompany the same with a certificate signed by the president and secretary of the local union to which they belong, and bearing the seal of the union, certifying that they have been in continuous good standing for one year previous to November 1 of that year. Announcements shall not exceed in space four lines of six-point type and the full width of one column of The Typographical Journal, and shall contain the following:

Name-----  
 Candidate for-----  
 Member of-----Union No-----  
 Continuous active member for-----years.

These announcements shall be properly classified under the heading of "Candidates for International Offices," and shall be further classified under appropriate sub-headings designating the office for which the member is a candidate, and this publication shall be an official notification to the officers and members of subordinate unions of the candidacy of such members for the office designated.

## NOMINATION OF CANDIDATES

SEC. 3. Subordinate unions may nominate at the regular meeting in February one candidate for each elective office. Nominations shall be made by ballot and the names of all members who have announced their candidacy as is provided in the preceding section shall appear thereon. Candidates for President, First Vice-President and Secretary-Treasurer who receive a majority of the votes cast shall be recorded as having received the endorsement of the union. Candidates for other offices who receive the highest number of votes shall be recorded as having received the endorsement of the union. It shall be the duty of one of the secretaries of each subordinate union taking action to immediately notify the Secretary-Treasurer, who is directed to close nominations at 12 M. (noon), on March 8, those received after that time to be disregarded; the Secretary-Treasurer shall publish in the April issue of The Typographical Journal a list of nominees and nominators, declaring the five candidates for each office who have been supported by the largest number of unions as nominees for the offices for which they were respectively named: *Provided*, That candidates for the office of President, First Vice-President, and Secretary-Treasurer shall have at least fifty endorsers, and all other candidates shall have at least twenty endorsers.

SEC. 4. Within forty-eight hours after closing of nominations, the Secretary-Treasurer shall mail notices of their nominations to all eligible candidates, and each candidate so notified shall on or before 12 M. (noon) of March 25, inform said Secretary-Treasurer of his acceptance of the nomination. Each candidate, when sending notices of acceptance of a nomination, shall also file with the Secretary-Treasurer a statement that he or she has been in continuous good standing for one year previous to March 1 of that year, and said statement shall be attested by the president and secretary of the local union, with the seal of the union attached. On failure to comply with this law it shall be the duty of the Secretary-Treasurer to strike the delinquent's name from the list, inserting in lieu thereof the name of the next eligible candidate. He shall also forward with

his acceptance of the nomination, if he desires to use the space allotted him, his letter for the April issue of *The Typographical Journal* provided for in the following section.

SEC. 5. Candidates who have received the requisite number of endorsements and who have filed their acceptance of the nomination for office sought shall be entitled to space in the April and May issues of *The Typographical Journal* for the publication of reasons and arguments in support of their candidacy, such matter to be personally prepared by the candidates, and no candidate shall issue, or sanction the issuance of, any other literature or printed matter in his behalf, unless signed by the candidate or three members in good standing of the International Typographical Union: *Provided*, That the letters of candidates for President, First Vice President, Second Vice President, Third Vice President, and Secretary-Treasurer shall not exceed two thousand words each; letters from candidates for other offices shall not exceed three hundred words each: *Provided, further*, That the letters of all candidates shall be subject to and governed by subsection c, section 4, article viii, of the bylaws. It shall be the duty of the Secretary-Treasurer to properly arrange the letters of all candidates under a general heading of "Political Section," and subclassify them under appropriate heading designating the office and the candidate in whose interest the publication is made. All such matter shall be set in type uniform in size and style with the general body type of *The Typographical Journal*. The "Political Section" herein provided for shall appear in *The Typographical Journal* for the months of April and May preceding the election.

SEC. 6. The Secretary-Treasurer shall, as soon as possible after the foregoing provisions have been complied with, prepare and have printed ballots containing the names of all candidates who have qualified: (a) Names shall be arranged according to the number of nominations received. (b) When a tie occurs the name shall be drawn by lot. (c) Each candidate's name by the name and number of the union of which candidate is a member. (d) The ballot shall bear the official seal of the International Typographical Union. (e) The ballot shall be so constructed that a voter can with ease designate his or her choice by making cross (X) opposite the names of candidates for whom he or she desires to record his or her vote. (f) The International Secretary-Treasurer shall supply to secretaries of subordinate unions a sufficient number of ballots free of cost, that all members of each subordinate union shall have opportunity to vote. (g) He shall also have prepared and supply to local secretaries two tally sheets. (h) He shall also have prepared and supply to local secretaries one envelope of proper size to carry the tally sheet, which envelopes shall be addressed to the International Secretary-Treasurer. (i) The return envelope shall have printed thereon in plain type the following words: "This envelope contains only election returns from Typographical Union No.—." (j) The necessary election supplies provided for herein shall be prepared before April 20 of year in which election of International officials occurs. (k) No ballots shall be used at such elections except those issued by the International Secretary-Treasurer in accordance herewith.

SEC. 7. In event of death of any candidate for President, Secretary Treasurer, First Vice President, Second Vice President, or Third Vice President regularly announced in the December or January issues of *The Journal*, or in the event of a vacancy because of death of any candidate on the official ballot for the above-mentioned offices, such vacancy may be filled by petition of fifty subordinate unions in the case of President and Secretary-Treasurer, and twenty subordinate unions in the case of First Vice President, Second Vice President, and Third Vice President; action by local unions to be taken at regular meetings or special meetings called for the purpose; and the Secretary-Treasurer shall be notified immediately, as provided in section 3, governing nominations for office, at the union meetings held in February. The notifications from subordinate unions of their nomination of a candidate or candidates by petition under this section must be in the hands of the Secretary-Treasurer not later than 12 M. (noon) the first Wednesday of May preceding the election: *Provided*, Subordinate unions which appear as endorsers of one candidate eligible to a place on the official ballot shall not be eligible to petition on behalf of another candidate for the same office under the provisions of this section.

#### ELECTIONS

SEC. 8. Elections shall be held on the third Wednesday in May: *Provided*, That local unions may by law fix hours during which ballot boxes may be open for the purpose of voting at any time between midnight of the Tuesday preceding the

third Wednesday in May and 12 noon the following Thursday, (a) Subordinate unions must provide opportunity for their members to cast their ballots in accordance with the election laws of the International Typographical Union: *Provided*, That in chapels of 10 or more where a member is off on Wednesday he may procure his ballot no earlier than Tuesday at 8:00 A. M. and where off both Tuesday and Wednesday he may procure his ballot no earlier than Monday at 8:00 A. M. and place it in a sealed envelope containing a chapel seal on it and then personally deposit it in the official ballot box in the presence of a duly elected member of the chapel election board as provided in subsection "e" below. (b) Subordinate unions shall establish within their jurisdictions a voting place centrally located and easily accessible, to be known as the secretary's chapel and to be in charge of at least three members of the union, elected by the union, to be known as the election board of the subordinate union. Secretaries of subordinate unions shall not distribute official ballots to individual members in advance of the day of election except in the cases provided for in subsection "a" above. Ballots shall be delivered only to the election board and to members authorized to receive same where necessary to take the vote in chapels. (c) Members not attached to any chapel shall cast their ballots in the secretary's chapel. Members in chapels of less than ten members may cast their ballots in the secretary's chapel or subordinate unions may regulate by law the method of taking the vote in chapels of less than ten members. (d) Each member entitled to vote shall be provided with a clear unmarked ballot and given full opportunity to privately mark and personally cast same in a sealed box provided by the unions for that purpose. (e) In chapels with a membership of ten members or over the vote must be taken in chapels, tabulated by a board of not less than three members of the chapel elected by the chapel. Such board shall make return of the chapel vote, together with all used and unused ballots, to the election board of the subordinate union within twelve hours after the close of the poll. Chapel election boards shall post in their respective chapels a duplicate of the return sheet sent to the local election board. (f) Local election boards shall post the total vote received by each candidate in their respective unions in a manner that may be available to all interested members. (g) A copy of the returns made to the Board of Electors shall be preserved in the records of the subordinate union. (h) The accredited representatives of any candidate for an international office shall be admitted to the polls of any subordinate union, either printers or mailers, and shall upon demand be furnished with a copy of the list of voters. They shall be allowed to check the list as the votes are cast, to observe the method and manner of voting and casting the ballots and shall be allowed to be present and observe the counting and tabulating of the votes. Such representatives shall be members in good standing of the International Typographical Union.

SEC. 9. Any subordinate union refusing or neglecting to hold an election as required by this law shall be disciplined as the Executive Council may direct.

SEC. 10. Local unions are instructed that, in canvassing the returns of their members, no votes shall be counted other than those recorded on official ballots furnished by the Secretary-Treasurer of the International Typographical Union.

SEC. 11. No member of a subordinate union shall be eligible to vote for local officers unless he has been a member of said local for not less than thirty days previous to said election, and must be in good standing: *Provided*, That subordinate unions can require a longer length of membership, not to exceed ninety days, except where a local has been in existence a shorter period.

SEC. 12. All members residing at the Union Printers Home, constituting the Union Printers Home chapel, shall be permitted to vote in all International Union elections and referendums. At the April meeting of the Union Printers Home chapel nominations shall be made for six members to act as an election board, the vote for the said nominees to be taken within two weeks of said nominations. (*Provided*, however, that should the chapel at any time, or for any reason, fail to act as above provided; or should said chapel at any future date be dissolved or declared nonexistent, the Superintendent shall call a meeting of residents not later than May 1 preceding the International Union election to nominate candidates for such board of elections and set a date for its election.) The member receiving the highest vote shall be chairman of said board and make arrangements with the Superintendent for an adequate central polling place; notify the residents by placing notices on the bulletin boards of the date, time, and place for voting of those residents physically able to repair to such central polling place to cast their ballots, and shall appoint three members of such duly

elected board to canvass the hospitals and sanatorium to receive and record the votes of those members who, by reason of their illness or affliction, may be confined therein, to the end that no one may be deprived of the privilege of voting. If such confined member, through illness or affliction, is unable to mark his ballot, he may request the assistance of a member of the canvassing board, who shall thereupon read the complete list of candidates for each office, as they appear on the official ballot, and mark the ballot in the presence of another member of the election board according to the express wish of said ill or afflicted member, reading back to the elector the ballot as marked. At the close of the polls the entire board shall count the ballots and make the returns upon the tally sheets furnished by the International Secretary-Treasurer, and forward same in sealed envelopes, furnished for that purpose, to the International Board of Electors by registered mail. All sections of the by-laws governing the holding of any election, not in conflict with the foregoing, are to be followed. Payment for the services of such Home election board shall be made from Home funds, and be fixed by consultation between the Superintendent and chapel chairman, but in no case less than \$6 nor more than the maximum scale of Colorado Springs Typographical Union No. 82 per day per member.

SEC. 13. The president and secretary of each subordinate union shall forward to the International Board of Electors within forty-eight hours a true copy of the vote of the subordinate union, such returns to be made under the official seal of the union: *Provided*, That unions of over 2,000 members may make return within seventy-two hours after the close of balloting. Such returns shall be made upon tally sheets furnished by the International Secretary-Treasurer and be forwarded in envelopes likewise furnished. Nothing other than the return of the vote by the local union shall be enclosed in such envelope.

SEC. 14. Ten days prior to an election, the Secretary-Treasurer shall send to each subordinate union official return sheets in duplicate and an official election return envelope, to be addressed to the "Board of Electors, International Typographical Union, Lock Box —, Indianapolis, Indiana."

SEC. 15. It shall be the duty of the International President and Secretary-Treasurer to secure, prior to the date of any International election, a postoffice lock box to which the returns shall be mailed. The President and Secretary-Treasurer, or their representatives, shall take the returns from the lock box each day and deposit them in a securely locked box at headquarters, making a check sheet of each envelope received.

SEC. 16. The board of electors shall be composed of one representative of each of the two candidates for President and Secretary-Treasurer having received the greatest number of endorsements and the candidate for First Vice President having received the greatest number of endorsements, such representatives to be certified to the Executive Council.

SEC. 17. It shall be the duty of the board of electors to meet on the tenth day following an International election, organize by electing a chairman and in the presence of the International President and Secretary-Treasurer, open the box containing the election returns from subordinate unions and begin the canvass of the vote. Upon completion of such canvass, the board of electors shall submit a notarized report to the International President and Secretary.

SEC. 18. The board of electors as constituted by this article shall have custody of the returns during the period of the canvass and may designate the manner in which such returns are to be preserved following completion of the canvass and the period of preservation.

SEC. 19. The board of electors shall not count votes cast by subordinate unions that have not complied with the provisions of section 22, subsection (2) of this article. (a) The vote of unions shall be counted if they are received before the canvass of the vote is begun. (b) The board of electors shall make a distinct announcement of the successful candidates, who shall assume office beginning on the date provided in the constitution, section 3, article v. (c) Any candidate for a place on the Executive Council shall be entitled to have one representative present at all sessions of the board of electors during the time returns are being canvassed and its report formulated.

SEC. 20. The report of the board of electors shall be printed in detail in The Typographical Journal.

SEC. 21. Candidates for President, First Vice President, Second Vice President, and Secretary-Treasurer who receive a majority of all votes cast shall be declared elected. For all other offices candidates who receive a plurality of all votes cast shall be declared elected. In the event no candidate for President, First

Vice President, Second Vice President, or Secretary-Treasurer receives the majority necessary to elect on the first ballot, the board of electors shall direct the Secretary-Treasurer to prepare and issue ballots containing the names of the two candidates who receive the largest number of votes and subordinate unions shall hold an election on the fourth Wednesday in June, the election to be conducted in the same manner and the result to be certified in the same way as obtained in the preceding election. When there is a tie vote between candidates for any office other than President, First Vice President, Second Vice President, and Secretary-Treasurer the decision shall be by lot in a manner to be determined by the tied candidates.

#### VOTERS, QUALIFICATIONS AND RESTRICTIONS

SEC. 22. The qualifications of voters shall be: (1) Possession of a current working card, and freedom from delinquency of any nature to the International or subordinate unions. (2) Membership in a subordinate union which has complied with section 5, article ix, constitution. (3) Members working in localities in which no local union exists, and who are in no way indebted to the International Typographical Union, shall have the same rights as other members on all matters submitted to the referendum. The Secretary-Treasurer shall see that such members are given the opportunity to exercise this right.

SEC. 23. Every member of the International Union shall be entitled to a vote for all officers, except as otherwise provided.

SEC. 24. Every member of the International Typographical Union in good standing shall be entitled to vote on all propositions submitted to the referendum.

SEC. 25. Subordinate unions have not the right to require that their members shall hold regular situations before they shall be entitled to vote or hold office.

SEC. 26. Any candidate for any office within the gift of the International Union or any subordinate union who shall pay, or offer to pay the dues and assessments of any member of the union for the purpose of making such member eligible to vote, shall be deemed guilty of bribery and shall be punished as the International or local union may direct.

SEC. 27. Members shall be allowed to vote but once at an election of International officials: *Provided*, That if those charged with the conduct of the election by a subordinate union, or any of them, have reason to believe that a member has voted under the jurisdiction of a sister union, or any member challenges his right to vote on account of his having exercised that right previously, he shall be permitted to vote on signing the following: "*I hereby declare on my honor that I have not voted for International officers at this election, and I make this declaration with a full knowledge of the fact that misrepresentation renders me liable to discipline.*"

#### TAMPERING WITH ELECTIONS

SEC. 28. Any member convicted of misrepresenting returns, altering, mutilating or destroying deposited ballots, or voting fraudulently or illegally, or of intimidating others by threats or otherwise interfering with a member in the exercise of his or her right to cast his or her ballot, shall be punished as the local union may determine; in no case shall be penalty be less than a fine of \$25 and the member so convicted shall forever be disqualified for either elective or appointive office within the jurisdiction of the International Typographical Union. It is further provided that for the purpose of preserving the purity of elections and integrity of this law the Executive Council, all other laws or parts of laws to the contrary notwithstanding, is empowered to proceed against an alleged offender and mete out punishment as in the opinion of a majority of the council is just and equitable.

#### OBLIGATION FOR OFFICERS

SEC. 29. Incoming elective officers of the International Typographical Union shall subscribe to the following obligation:

*I (give name) hereby solemnly and sincerely swear (or affirm) that I will perform all the duties of the office to which I have been elected to the best of my ability and will ever uphold the integrity of the International Typographical Union and strive for the advancement of its members.*

## DELEGATES AND ALTERNATES

SEC. 30. No member of a subordinate union shall be eligible to election as delegate or alternate to the International convention unless he or she shall have been a resident member of and in good standing in such subordinate union at least six months immediately preceding the date on which said election is held, but this latter qualification shall not apply to the delegate or delegates, alternate or alternates of a union organized within a less period than six months.

SEC. 31. No member of a subordinate union shall be allowed to vote for delegate to the International Typographical Union convention unless his or her card shall have been deposited with the secretary thirty days preceding said election. Subordinate unions have not the right to extend the period fixed by this section.

SEC. 32. The election of delegates and alternates to the International Typographical Union convention shall be held on the third Wednesday in May preceding the meeting of the convention in accordance with section 8, article ix, subsection (d), by-laws. In case where a tie vote for delegates or alternates is declared another election shall be immediately ordered by the local officers: *Provided*, Candidates for delegates or alternates without opposition shall be declared elected by local unions, as of the third Wednesday in May without the formality of an election.

SEC. 33. The number of delegates to which a union shall be entitled must be determined by the average membership on which it paid per capita tax during the twelve months immediately preceding the issuance of the call.

SEC. 34. At the same time delegates to the International Typographical Union convention are elected, subordinate unions shall elect the same number of alternates, who, in case of death or inability of said delegates to act, shall be entitled to the full power and privileges accorded delegates.

SEC. 35. The delegates chosen to attend the convention of this union shall hold office until the election of their successors, and in case of vacancies subordinate unions are authorized to at once proceed to elect a delegate or delegates as successor or successors. Each delegate must be furnished (for presentation to this union) with a certificate of election, duly authenticated by the seal of his subordinate union, according to the following form, viz.:

*To the International Typographical Union of North America:*

WE HEREBY CERTIFY THAT-----being qualified  
as required by section 30, article ix, of the International By-Laws, was legally  
elected delegate from this union to the International Typographical Union con-  
vention, on the ----- day of -----, 19-----, his term of  
office to begin on the first day of the next convention of the said union to be  
held at -----

Given under our hands and seal of the ----- Union  
No-----, this ----- day of -----, A. D. 19-----  
[SEAL] -----President.  
-----Secretary.  
-----Delegate's Signature.

SEC. 36. Return (under seal) of such delegates-elect and alternates must be mailed to the Secretary-Treasurer within forty-eight hours after election.

SEC. 37. The expenses of said delegates to the convention of this union shall be defrayed by the subordinate unions they respectively represent.

SEC. 38. The Secretary-Treasurer, before the meeting of the International convention, shall prepare a roll of the delegates-elect, and place thereon the names of those persons, and such persons only, as shall be shown to have been elected in accordance with the laws of the International Union and of subordinate unions, as certified by secretaries of subordinate unions. In cases of contests, the delegate having credentials in proper form shall be seated, but the names of the parties claiming election shall be submitted to the International convention for final decision on the contest or protest. Where unions have not complied with the laws of the International Union the names of delegates from such unions shall also be submitted.

SEC. 39. No delegates shall be entitled to vote in the convention of the International Union whose union has not previously paid over to the proper officers of the International Typographical Union the per capita tax and all indebtedness of his union. No member of a subordinate union shall be eligible to election as delegate whose wearing apparel does not bear at least five union labels.

SEC. 40. Any subordinate union may, by such vote of members present as local by-laws provide (which shall not be less than three-fourths majority), in-



struct its delegates to a convention of the International Typographical Union at any regular meeting after election of delegates and previous to said convention: *Provided*, Notice of such action has been given at a previous meeting.

#### ARTICLE X. FISCAL YEAR

SECTION 1. The fiscal year of this union shall commence on the twenty-first day of May, and end on the twentieth day of May in each year.

#### ARTICLE XI. FUNDS AND REVENUE

SECTION 1. The Secretary-Treasurer shall prepare and sell to subordinate unions, through the proper officers, at a face value equal to the monthly per capita tax of the International Typographical Union, adhesive stamps, and working cards with stamps of equal value printed thereon, to be known as International due stamps and working cards.

SEC. 2. The Executive Council shall take immediate steps to secure the funds of the International Typographical Union in excess of \$50,000 (the amount of the bond of the Secretary-Treasurer), by investing such excess in bonds of the United States, and said investments to be made by the President and Secretary-Treasurer under the order of and with the approval of the Executive Council: *Provided*, That if the Executive Council deems advisable, it may order the President and Secretary-Treasurer to deposit the funds of the International Typographical Union in any reputable bank or banks to be selected by the Executive Council, and accept as security for such deposits bonds from any approved surety company of good reputation, and such deposit bonds shall be made payable to the President and Secretary-Treasurer and their successors as trustees for the International Typographical Union and its members, and for any breach of said bonds the President and Secretary-Treasurer and their successors shall be authorized in their name as such President and Secretary-Treasurer as trustees for the International Typographical Union and its members to bring suit against any defaulting bank and its surety or sureties.

SEC. 3. The moneys of this union used for defensive purposes shall be drawn on only for the following objects: For the sustaining of legal strikes or lock-outs of subordinate or affiliated unions; for the payment of expenses of officers or representatives of this union when engaged in the settlement of disputes or the formation of new unions, and for such other purposes, relating strictly to the business of this International Union, as the Executive Council may deem wise or necessary.

SEC. 4. Whenever a union which has complied with all laws shall have within its jurisdiction a lock-out, strike, or other trouble of like nature, it shall be entitled to such assistance as the Executive Council shall deem necessary, or as shall be directed by the International Union laws to meet such cases.

#### ARTICLE XII. HONORABLE WITHDRAWAL CARDS

SECTION 1. Members in good standing who cease to work at the business shall be entitled to the withdrawal card issued by this union, which exempts them from the payment of all dues, and deprives them of all offices and benefits whatsoever. Application for withdrawal cards will be granted or denied by vote of the local union of which applicant is a member. An honorable withdrawal card shall not be issued unless applicant shall have been fully informed in writing by an officer of the local union as to any rights he may have under section 6, article vii. and section 1, article xviii, Bylaws.

SEC. 2. The withdrawal card shall contain on its obverse side the following words:

#### *International Typographical Union*

-----, 19--  
THIS CERTIFIES THAT -----, the holder hereof, was at this day and date a member in good standing of the International Typographical Union, and at his request is granted this Honorable Withdrawal Card, which exempts him from all dues or taxes whatsoever, and acquits him of all rights to benefits of any kind whatsoever in said organization; and he is required to deposit same with the proper officer before again accepting work at the printing trade, and he promises not to violate any trade requirement of the said Interna-

tional Typographical Union, or its subordinate bodies, while holding this card.

The holder of this withdrawal card understands that it terminates his membership, and that his continuous membership in the International Typographical Union will date from the time of its deposit in and acceptance by a subordinate union.

The holder of this card may, at his option, at any time within sixteen (16) months from the date hereon, deposit this card and retain continuous membership in the International Typographical Union by payment of all accumulated dues and assessments due the subordinate union issuing this card and the International Typographical Union.

Witness our hands and seal of \_\_\_\_\_ Union No. \_\_\_\_\_,  
the day and year first above written.

\_\_\_\_\_ President.

\_\_\_\_\_ Secretary.

\_\_\_\_\_ Applicant.

Countersigned \_\_\_\_\_ Sec.-Treas. I. T. U.

The reverse of the card shall contain the following, which must be subscribed to when the holder deposits same for the purpose of resuming active membership:

I hereby affirm, on my honor, that since receiving this card I have not been employed on work over which the International Typographical Union claims jurisdiction; that I have not worked at another trade or calling of which there is a regularly organized union without becoming a member of the union of the latter trade, and abiding by its regulations, so far as they are consistent with the laws of the International Typographical Union; that I have not performed any work detrimental to the interests of the International Typographical Union, or any union subordinate thereto; that I have not been guilty of violating any regulation of the International Typographical Union, or any union subordinate thereto; and this declaration is made with full knowledge that any willful misrepresentation renders me liable to discipline.

\_\_\_\_\_ Signature.

SEC. 3. Immediately on returning to work at the business, the holder of a withdrawal card shall deposit the same with a subordinate union of the International Typographical Union, subject to the approval of the authorities issuing it, and if on such deposit it shall be found he has violated no laws or rules of the International Typographical Union, he shall be placed on the active list. Withdrawal cards shall not be accepted in a jurisdiction where there is a ban on traveling cards except in locals where said withdrawal card had been issued. A fee of \$10.00 shall be charged the member depositing the withdrawal card who does not take advantage of retaining continuous membership, said monies to be credited to the I. T. U. General Fund.

SEC. 4. A member of a subordinate union working regularly at the business cannot demand the right of withdrawing from the union on the plea of economizing expenses or of inability to pay his dues; and a union, in such case, is justified in refusing to issue a card.

SEC. 5. When the holder of an honorable withdrawal card loses the same he can only receive a duplicate thereof by applying to the Secretary-Treasurer of the International Typographical Union, who shall issue such duplicate on the payment of \$1 after sufficient time has elapsed for an investigation to be made. Duplicates shall be furnished from a series separate from the regular honorable withdrawal cards and have printed thereon the words "Duplicate Card." No duplicate for a lost honorable withdrawal card shall be issued except with the consent of the union issuing the original card.

#### ARTICLE XIII. IMPEACHMENT

SECTION 1. In the event of the suspension from his official position of any elected International officer, by the President or his impeachment by the Executive Council, the officer so suspended or impeached shall be furnished with a detailed statement of the reason for such action. A trial board composed of the presidents of the five subordinate unions which have paid per capita tax upon the largest number of members during the fiscal year preceding such suspension or impeachment shall be directed to proceed to the headquarters city and shall constitute a trial board to try such officer upon the charges presented. The decision of said trial board shall be rendered within thirty days from date of

suspension or impeachment and shall be the decision of this International Union, subject to appeal to the convention next following.

SEC. 2. Any member of the Union Printers Home corporation may be impeached for ineligibility or for the commission of an indictable offense, or for violation or willful disregard of his duties of membership. When charges, based upon any one or more of the above enumerated grounds, have been made to the Executive Council against any member of the corporation, and, after trial, have been proven, the Executive Council shall thereupon enter an order of impeachment, which shall be deemed an order of the International Typographical Union, and the Executive Council shall forthwith thereafter certify such order to the Secretary of the Union Printers Home corporation, who shall take such steps as may be proper under the by-laws of that corporation to procure the resignation of the member so impeached; but if the member so impeached shall, upon being so requested, fail or refuse to resign, the Secretary shall thereupon take such further action in the premises as may be proper under the by-laws of that corporation to enforce the expulsion of the member so impeached. A certificate of impeachment from the Executive Council shall be conclusive upon the person named therein as to his ineligibility to membership in the corporation: *Provided*, Nothing herein contained shall restrict the right or power of the corporation of the Union Printers Home to expel any member, on proper procedure, without the intervention of the Executive Council.

#### ARTICLE XIV. JURISDICTION

SECTION. 1. The jurisdiction of subordinate unions chartered by the International Typographical Union of North America shall cover only the corporate limits of the city or town named in the charter, but any subordinate union may consider a place within a radius of fifty miles of its location, in which place no union exists, as within its jurisdiction for the purpose of admitting non-unionists in such place to its membership.

SEC. 2. The Executive Council of the International Typographical Union shall have power to extend the jurisdiction of subordinate unions to adjoining cities and towns where no union exists, and which are not included in the corporate limits of the petitioning union, for the purpose of enforcing the laws of the International and subordinate unions: *Provided*, That the petitioning union, makes satisfactory showing of its ability to properly supervise the additional territory and make satisfactory contracts therein.

SEC. 3. A subordinate union may be empowered by the Executive Council to declare jurisdiction over ships' printers, at a scale and with rules consistent with the work being performed, where the subordinate union can convince the Executive Council the granting of such power will benefit the International Typographical Union. This power granted to a subordinate union shall be over those ships using as their home port in the city in which said subordinate union holds jurisdiction.

SEC. 4. A subordinate union has no control over men regularly enlisted in the army or navy of the United States or British Provinces who may be detailed in the signal service or to work at the business at military headquarters or posts.

SEC. 5. Where a member of a local union under the jurisdiction of the International Union works at another trade or calling of which there is a regularly organized union, such member shall be required to join the union of the latter trade or calling, and abide by its regulations, so far as they are consistent with the laws of the International Union.

SEC. 6. When the International officers believe it will be to the interest of the organization, they shall advertise any unfair publication in such paper or papers as reach those who can be influenced to aid in making it fair.

SEC. 7. All classes of mailing, regardless of whether done by hand or power, are part of the mailing trade, and are under the jurisdiction of the International Typographical Union.

#### ARTICLE XV. LABEL

SECTION 1. The labels owned and furnished by the International Typographical Union, and described in its constitution, shall be transmitted to local unions on receipt by the Secretary-Treasurer of this union of a sum of money not exceeding 10 percent above the actual cost of production and distribution of said labels. Local unions shall have the right to say whether labels ordered by them shall

be machine cast or electrotyped. Said labels shall remain the property of the International Typographical Union. No local union shall be permitted to grant the label to offices outside the corporate limits of the city or town named in its charter, without first securing an extension of jurisdiction from the Executive Council.

SEC. 2. In cities where an organization of mailers exists, or in localities where mailers' organizations have jurisdiction, it is imperatively ordered that no typographical label shall be issued without consultation with the mailer's local having jurisdiction over that locality.

SEC. 3. Subordinate unions shall not allow the typographical label to be used upon any work where the composition is performed by any person who is not an active member of the International Typographical Union. In offices where the proprietor, or proprietors, perform composing room work the label shall not be used unless at least one journeyman member aside from the proprietor is employed at the scale and under union rules and regulations on work that bears the label.

SEC. 4. The label shall not be placed on work subcontracted by label offices from nonlabel offices.

SEC. 5. Where the label is used, the label lease number of, or the imprint of the firm actually doing the work, and not that of the concern for which the work is done, must be used.

SEC. 6. Subordinate unions are hereby instructed to bring before their respective legislatures a law protecting union labels.

## ARTICLE XVI. MEMBERSHIP

### APPLICANTS—NEW

SECTION 1. No union shall admit as a member any person who comes from a place where a union existed at the time of his leaving, unless he can produce a duly attested traveling card from said union: *Provided*, That any applicant for membership may be admitted if no objection is raised after the union from whose jurisdiction the applicant comes has been communicated with, and after publication of the application in *The Typographical Journal* as required by law. Any subordinate union violating this law shall be liable to a fine of \$25.

SEC. 2. All applications for membership shall be filed in duplicate on forms provided by the Secretary-Treasurer of the International Typographic Union. Secretaries of subordinate unions are required to furnish the Secretary-Treasurer one copy of each application. The names of all applicants for admission who have been known to or are suspected of having worked under the jurisdiction of a sister union, or about whose antecedents there is the least doubt, shall be published in *The Typographical Journal*, and no such applicant shall be received into membership until twenty-six days after the date of such publication. The requirements of publication in *The Typographic Journal* shall not be operative during the progress of a strike, or during the life of amnesty declared in accordance with the requirements of the laws of this union.

SEC. 3. No person shall be admitted to membership in a subordinate union who has not served an apprenticeship of at least six years, except that upon request of a subordinate union an applicant who has established competency and has met the educational requirements of the I. T. U. Bureau of Education may, with the consent of the President of the International Typographical Union, be admitted as otherwise herein provided. All applicants for membership shall be required to pass final test as prescribed by International Typographical Union Bureau of Education as to competency before admission and shall subscribe to and study the I. T. U. Lessons in Unionism. Should applicant fail to pass such examination satisfactorily he shall be required by local union to complete the International Typographical Union Course in Printing. No person who is not a member of the International Typographical Union shall be granted a card as a machine tender unless he has served an apprenticeship of at least six years as a machinist or machine tender. The same rigid examination as to the competency and physical fitness of the applicant shall be made by a committee of the local union as is made with respect to the competency and physical fitness of apprentices transferred to active membership, and local unions should prevail on such applicants to graduate in the International Typographical Union Lessons in Printing. The examination blanks and the outline of the competency test and agreement forms shall be furnished to subordinate unions upon request by the Bureau of Education of the International Typographical Union. The physical

examination shall be by a registered physician on blanks furnished by the International Typographical Union. Where the International Typographical Union takes jurisdiction over work of "other skilled employes" as provided in article i, section 1, of the constitution, their competency and fitness for membership shall be determined by the Bureau of Education and the period required to establish such competency and fitness shall be determined by the Executive Council of the International Typographical Union.

SEC. 4. When an applicant is elected to membership in a subordinate union, and leaves the jurisdiction of said union before being obligated, the obligation shall be administered by any other subordinate union upon presentation of properly certified credentials. The secretary of the union obligating the applicant shall notify the secretary of the union electing, and he shall then remit the registration fee to the Secretary-Treasurer of the International Typographical union in regular form and issue a traveling card to the person so obligated.

SEC. 5. Where there is not a sufficient number of applicants employed to secure a charter, those applicants may file their applications with a nearby union of their craft in the manner provided in section 2 of this article: *Provided*, Where an organization campaign is being conducted by the International Union, the International registration fee may be waived by the Executive Council in instances where competent applicants in sufficient number to issue a charter make application for membership: *Provided further*, Nothing in this section shall be construed as denying the right of a member to work in unorganized territory and pay his dues and assessments directly to the International Secretary-Treasurer.

SEC. 6. Persons eligible for membership who are located in a state or province, where restrictive laws prevent local unions from accepting applications for membership may, with the approval of the Executive Council, apply directly to the International Typographical Union for membership, paying such initiation fee as may be required in addition to the registration fees provided in section 11, article xvi, by-laws. Such applications for membership shall be approved or disapproved by the Executive Council, after the provisions of sections 2 and 3, article xvi, have been followed so far as they may apply, and after local unions from whose jurisdictions such applications may come have waived objection to admission. Applicants admitted by the Executive Council under this section shall receive traveling cards from the International Typographical Union and shall thereafter be governed by all laws relating to traveling cards.

SEC. 7. For the purpose of effecting more complete organization of the industry, a subordinate union may issue a provisional membership in the local union to such applicants as are eligible to membership in the International Typographical Union. Provisional members shall pay such local dues as are set by the local union for such members and the local union shall provide them with monthly copies of The Typographical Journal. Provisional membership may be granted only to qualified applicants employed in printing establishments in the course of organization. Provisional members shall not be eligible to vote nor entitled to any local or international union benefits until such time as they become full members, or local union organization work of their printing establishment is completed, after which they shall be liable to all dues, assessments, and other obligations required of all active members of the International Union and their continuous membership qualifying them for international and local union benefits shall begin on that date.

SEC. 8. A candidate for membership can not be rejected solely on the ground of having served his apprenticeship in an "unfair" office, but a local union may impose such restrictions, in its discretion, as seem best for the general welfare, upon apprentices entering "unfair" offices within its jurisdiction, and such apprentices may not be permitted to enter the union until such restrictions are removed or special laws complied with.

SEC. 9. Subordinate unions shall have the power to grant or refuse an applicant for membership a permit to work while his or her petition is pending. An applicant for membership, working under permit pending final action on his or her case, is entitled to work in union offices and receive the same recognition as members of the union: *Provided*, Local unions may establish regulations preventing applicants from holding priority previous to obligations as journeyman: *Provided further*, That subordinate unions have the power to revoke permits, pending final action, if it be known that applicants have sought employment contrary to the provisions of section 1, article vi, by-laws, or for any other reason deemed expedient. When an applicant for membership or reinstatement is once rejected in a subordinate union he can not again make a new application in any

union for a period of six months from the time of such rejection except by permission of the International President.

SEC. 10. An applicant (who is not otherwise disqualified) can not be rejected by a subordinate union while three-fourths of the members present at the meeting at which said application was acted on voted in favor of his admission, nor can an applicant be admitted to membership without having secured such three-fourths vote: *Provided*, This shall not apply when amnesty authority is in effect under the provisions of section 25, article xx, by-laws.

#### INITIATION FEES

SEC. 11. Subordinate unions shall collect in addition to the local initiation fee of the subordinate union a registration fee from each initiate as follows: Those less than 35 years of age, \$20; those over 35 years of age, \$35, which will be transmitted to the International Union with the name of the initiate: *Provided*, Where organization campaigns are in operation by the International or subordinate unions, registration fees may be waived by the Executive Council. The Secretary-Treasurer shall credit receipts from registration fees to the general fund: *Provided, further*, That upon the first application for journeymen membership of any person holding an honorable discharge from the military or naval services of the United States or the Dominion of Canada in World War II the registration fee shall be only \$10 for such applicant.

#### REINSTATEMENT OF SUSPENDED MEMBERS

SEC. 12. For reinstating members suspended for non-payment of dues the local union shall collect a reinstatement fee of \$25 and such local and International Typographical Union dues and assessments as were due at the time of suspension, together with such International Union per capita tax and assessments as shall have accrued to the time of reinstatement; and the secretary of the local union shall transmit to the Secretary-Treasurer of the International Union, properly segregated by months, all International Union dues and assessments collected by such subordinate unions, together with \$10 of the reinstatement fee. Members suspended for non-payment of dues while in possession of a traveling card may be reinstated by the Secretary-Treasurer of the International Typographical Union, if such members are not located within the jurisdiction of a local union, upon payment of a reinstatement fee of \$10 and accumulated dues and assessments as herein provided.

SEC. 13. A member who does not apply for reinstatement as provided in section 12 within a period of one year after date of suspension forfeits all rights to re-establish continuous membership and can rejoin only by making application as a new member.

SEC. 14. A member who engages in mechanical work at the printing trade in the jurisdiction of a local union or who is guilty of conduct unbecoming a union member during the period of suspension cannot be reinstated, but may make application as a new member.

SEC. 15. A member who reinstates continuous membership as provided in section 12 shall not be eligible to apply for admission to the Union Printers Home, or make application for the old-age pension, within a period of one year after date of reinstatement; or if death occurs within a period of ninety days after date of reinstatement the member shall not be entitled to the mortuary benefit.

#### ARTICLE XVII, MEMORIAL DAY

SECTION 1. The last Sunday in the month of May of each year shall be known as Typographical Union Memorial Day. Subordinate unions are urged to observe the same with suitable ceremonies and to decorate the graves of all departed union printers or members of the allied crafts and to hold such other services as may be appropriate to the occasion.

#### ARTICLE XVIII, OLD AGE PENSION AND MORTUARY BENEFIT

##### OLD-AGE PENSION

SECTION 1. Any member of the International Typographical Union who has reached the age of 60 years and having a continuous membership of twenty-five years immediately antedating time of application and who is unable to continue in or secure sustaining employment because of age or disability may receive the

sum of \$15 per week: *Provided*, That any member having a continuous membership of twenty years, who by reason of affliction, is totally incapacitated for work and whose application for admission to the Union Printers Home has been rejected by the trustees thereof for the reason that the Home is not able to care for persons so afflicted may receive the sum of \$15 per week subject to the provisions hereinafter set forth.

SEC. 2. Pensioners may engage in a pursuit inside or outside the trade, but shall not be eligible for the pension in any four-week pension period that money received as wages shall exceed the sum equivalent to eight days' pay at the scale of the union with which pensioner is affiliated, or in any five-week pension period that money received as wages shall exceed the sum equivalent to ten day's pay at the scale of the union with which pensioner is affiliated: *Provided*, That the regulation of the working privilege to pensioners be relegated to subordinate unions.

SEC. 3. Applications for pensions shall be made on blank forms prepared and furnished for International headquarters, which shall require answers to all questions, and the setting forth in full of all facts required to establish the right of applicant to the benefits of the pension. Such blank shall also include a form of certificate that the application has been read in full at a regular meeting of the local union of which the applicant is a member, and has been approved by a majority vote of those in attendance upon such meeting. Said application shall be published in The Typographical Journal and should no objection be made within thirty days from the date of said publication, the member shall then be placed on the pension roll and payments of benefits start from date of approval by the local union on the application. Should objection be raised, the case shall be investigated by the Executive Council and the council shall act thereon in such manner as in its judgment seems proper.

SEC. 4. Members resident of the Union Printers Home shall be eligible to make application for the pension while so residing at that institution and shall be permitted to remain in the Home pending decision on application if he or she so elects. If application is acted upon favorably, applicant shall vacate the Home not less than one week previous to the issuance of his first pension check; if applicant is rejected applicant shall continue as a Home resident if he so desires. When a member is admitted to an eleemosynary institution, whether publicly or private maintained, and such member has a wife dependent on him, the Secretary-Treasurer is authorized to make the pension payable to the wife.

SEC. 5. A member who was on pension roll when entering Home, upon vacating, shall again be placed on roll by International Secretary-Treasurer, and member's local union notified of such action, and eligibility to receive pension shall begin on the Monday following his departure from the Home.

SEC. 6. Secretaries of subordinate unions shall forward on the last Saturday of each calendar month to the International Secretary-Treasurer a true and correct list of members on the pension roll showing the amount due each pensioner. On receipt of such list the International Secretary-Treasurer shall transmit the amount due to the local secretary for distribution.

SEC. 7. Any beneficiary who has knowingly testified falsely concerning his or her qualifications as a worthy applicant for said pension shall be debarred from receiving pension for such time as the Executive Council may deem fit.

SEC. 8. The Executive Council shall have the power at all times to review any pension case, and if in its opinion circumstances warrant it the beneficiary may be debarred from further participation in the pension fund. In any case where payment of the full International Typographical Union pension to a pensioner would deprive him of a pension or similar benefits from other sources, on petition of pensioner, the Executive Council shall have power to authorize payment of a smaller International Typographical Union pension.

SEC. 9. In order to meet exigencies that may arise, the Executive Council is authorized and empowered to make such changes in administering the old-age pension fund as it may deem wise.

#### MORTUARY BENEFIT

SEC. 10. Mortuary claims shall be allowed the beneficiary of any deceased member in good standing under the following terms and conditions: It is expressly provided that the beneficiary of any member shall be entitled to the mortuary benefit should death occur within the thirty-day period immediately following the expiration date of a current working card. (See section 1, article vii, and section 2, article xxi, by-laws.)

SEC. 11. Each and every member of the International Union shall be required to designate a beneficiary to whom his or her mortuary benefit is to be paid in event of death. Such designation shall be made upon his or her application for membership, or upon a blank provided by the International Secretary-Treasurer for the purpose. The mortuary benefit of a member who is on the old-age pension roll or a resident of the Union Printers Home at time of death shall be disbursed as provided in section 16, and no beneficiary may be designated other than as provided in that section. Any member may change his or her beneficiary at any time by notifying the International Secretary-Treasurer and filling out the proper form, except that pensioners and Home residents shall be restricted in choice of beneficiary or beneficiaries to the relatives listed in section 16.

SEC. 12. The mortuary benefit is primarily intended to guarantee proper burial for the member and other considerations are secondary to this end. The local union shall determine what constitutes a proper burial in cases where the deceased member is indebted to the local union for assistance provided or guaranteed before death during and pertaining to his last illness; or for dues and assessments the local union has been compelled to pay in his behalf as provided in section 8, article vi, bylaws, and in such cases the excess over burial expenses shall be paid to the local union to the extent of such indebtedness before any amount shall be paid to a designated beneficiary.

It is specifically provided that the mortuary benefit is not to be used as security for personal loans by the local union or others to members. Dues and assessments paid by a local union on behalf of a pensioner or resident of the Home are not deductible from the mortuary benefit.

Sums paid by the local union for transportation to the Home or as refund transportation from the Home or subsequent Home transportations which the member cannot pay himself may be charged as indebtedness to the local union within the meaning of this section.

Where a member has made no specific arrangements for funeral expenses to be paid from another source the International Typographical Union mortuary benefit shall be available for that purpose except as herein otherwise provided. Where a member has made specific arrangements for funeral expenses to be paid from another source the Secretary-Treasurer of the International Union shall be notified on a blank provided therefor and a copy filed with the local union before death of the member. In such event indebtedness to the local union as above provided shall first be paid and upon presentation of receipted bills for funeral expenses the balance shall be paid to the designated beneficiary. Where (without specific arrangement) funeral expenses have been paid from insurance or other fraternal benefits, the designated beneficiary shall receive such mortuary benefit as may be payable.

SEC. 13. If no beneficiary be named or if the designated beneficiary resides at a point where he or she can not take charge of the funeral then the International Typographical Union shall defray the expenses of the funeral out of the amount owing upon the mortuary benefit of the deceased member not to exceed the amount available from such benefit.

SEC. 14. On the death of a member in good standing the president and secretary of the subordinate union shall immediately notify the Secretary-Treasurer of the International Typographical Union on a form provided for that purpose, accompanying such notice with the last working card or traveling card of the deceased member. The application for mortuary benefit form shall contain an itemized statement of all sums due the local union for which it claims payment, the amount to be paid the beneficiary and (where funeral expenses are to be paid from the benefit) shall be accompanied by the itemized bill for funeral expenses of the deceased. In the event that the designated beneficiary shall have paid the funeral expenses the balance of the benefit due the beneficiary shall be specified on the form.

SEC. 15. If there be no indebtedness to the local union nor any notice properly filed as to the payment of funeral expenses from another source, or if funeral expenses have not been paid from another source, the beneficiary is hereby charged with the responsibility for payment of burial expenses and unless the beneficiary submits a receipt showing payment of funeral expenses the local union shall forward the bill for such expenses for payment. The balance of the benefit may then be paid to the beneficiary. Should the designated beneficiary be other than the person in whom the right of burial rests, funeral expenses in the amount determined and guaranteed by the local union shall be paid and the residue of the benefit paid to the designated beneficiary. (Refer to section 12 for cases where deceased was indebted to local union.)



SEC. 16. Where a deceased member is on the old age pension roll or a resident of the Union Printers Home at time of death and has not designated one or more of the persons specified in paragraph (c) below, Union Printers Home or a local union as his beneficiary or beneficiaries,

—or where a deceased member has not designated a beneficiary,

—or in the event the beneficiary designated shall have died before the mortuary benefit check is cashed,

—or if the deceased member has designated his wife as beneficiary and, after such designation, she ceased to be his wife,

Then, or in any of these events, the mortuary benefit shall be disbursed as follows:

(a) First, payment of funeral expenses guaranteed by local union, the superintendent of the Union Printers Home or the Secretary-Treasurer of the International Typographical Union.

(b) Second, to reimburse his local union as provided in section 12 of this article.

(c) Third, to the living wife (husband) of the member; but in the event there is no wife (husband) living then to be disbursed for the benefit of the living children in equal amounts. In the event there are no children then to the surviving father and mother or either of them surviving alone. If no wife (husband), child or children, father or mother survive, then to surviving brothers and sisters in equal shares. Payments due minor children may be paid to a legally appointed guardian, or if none has been appointed, payment may be made to the president and secretary-treasurer of the local union to be expended by them on behalf of such minor or minors.

(d) Fourth, in the event there are no surviving wife or husband; children, mother or father; sisters or brothers, then the balance remaining shall revert to the mortuary fund.

SEC. 17. Only the local union of which the deceased was a member at time of death (or the local union having charge of the funeral of a member on traveling card) shall have the right to file claims for reimbursement as provided in section 12 hereof. Where the deceased is to be buried in a place other than where death occurs the local union with which deceased's card is on deposit shall make all arrangements and report fully on mortuary benefit application blank to the Secretary-Treasurer of the International Union. Payment of mortuary benefits shall only be made on receipt of mortuary benefit application blanks fully made out by the local officers. Where the beneficiary of a deceased member died before mortuary benefit check is cashed the local union may handle joint funeral expenses the same as though they were of the deceased only.

SEC. 18. It is specifically provided that in the interpretation and application of these mortuary benefit laws the International Typographical Union shall be the sole and final authority.

SEC. 19. In case of the decease of a member holding a traveling card, the mortuary benefit shall be paid through the local union in or near whose jurisdiction death occurred or in or near whose jurisdiction burial takes place, as may be decided by the International Secretary-Treasurer. In cases where there is no nearby local union the International Secretary-Treasurer is authorized to disburse the benefit in accordance with the Mortuary Laws.

SEC. 20. In the event the beneficiary or beneficiaries of a deceased member can not be located within thirty days after notice of death the International Secretary-Treasurer shall insert in the next three issues of the official Journal a notice requesting information about such beneficiary or beneficiaries. If after six months from the date of first such publication no claim is received from the said beneficiary or beneficiaries, then the mortuary benefit payable to such beneficiary or beneficiaries shall revert to the mortuary fund.

## ARTICLE XIX. STRIKES, LOCKOUTS, AND DEFENSE

SECTION 1. In the event of a disagreement between a subordinate union and an employer, which, in the opinion of the local union, may result in a strike, such union shall notify the President, who shall in person or by proxy investigate the cause of the disagreement and endeavor to adjust the difficulty. If his efforts should prove futile, he shall notify the Executive Council of all the circumstances, and if a majority of said Council shall decide that a strike is necessary, such union may be authorized to order a strike.

SEC. 2. When a strike has been authorized by the Executive Council, a vote by referendum may be ordered, or the president of the subordinate union shall,

within a time fixed by the Executive Council, call a meeting of said union of which all members shall be constitutionally notified) to take action thereon, and no member shall vote on such question unless he is in good standing and has been a member of said union for the preceding six months. Should three-fourths of such members present decide by secret ballot in favor of a strike the president of the subordinate union shall immediately notify the Executive Council that a strike has been inaugurated and give all available information including number of members involved.

SEC. 3. Whenever a strike occurs without the sanction of the Executive Council, the council must immediately disavow the illegal strike and notify all subordinate unions to that effect. Protection shall be guaranteed to all members who remain at, accept or return to work in offices affected by the illegal strike, as specified in section 8. Any officer or member of a union who shall suppress or conceal from his union or the Executive Council any official information concerning a strike, or a proposed strike, shall upon conviction by the local union be suspended or expelled.

SEC. 4. A strike or lock-out of any branch or craft of the International Union, authorized by the Executive Council thereof, shall apply alike to each and every union, craft, and individual working under said jurisdiction in the office or concern involved. Should a majority of said union fail to support a proposition to strike, the aggrieved union may take an appeal to the Executive Council, and, if after being furnished with statements from all parties concerned, a majority of the members of that body believe the inauguration of a strike absolutely necessary, the President shall in person, or by proxy, again attempt to effect a settlement with employers, and if unsuccessful, shall, through the officers of the various unions, order a general strike of all members of the International Typographical Union employed by the firm or firms interested, and those disregarding this order shall be forthwith expelled.

SEC. 5. In case of impending trouble involving allied crafts, the Executive Council shall call into consultation the president or presidents of unions of such crafts.

SEC. 6. A strike or lock-out of any union may be declared off by a majority vote of the union. In case of a strike or lock-out, where more than one craft is involved, settlement shall be made by a majority vote of all crafts involved. In making settlement all crafts involved shall be parties thereto, each to have due consideration.

SEC. 7. It is imperatively ordered that no strike or lock-out shall be deemed legal, or money expended from the defense fund on that account, unless the strike or lock-out shall have been authorized or recognized by the Executive Council; but should a strike, lock-out, or reduction of wages be forced on a union without an opportunity to carry out the provisions of sections 1 and 2, said union shall be entitled to the full privileges of the defense fund.

SEC. 8. To affect union men prejudicially to their standing in the union who remain at work in an office where any number of the union men in such office have struck work on what they deem good grounds for such action, the strike must have been authorized in accordance with sections 1, 2, and 4 of this law. Unless so authorized, those remaining at work are not liable to charges of violation of any union laws.

SEC. 9. When there shall have been a strike ordered in accordance with the laws of the International Union all union men shall be deemed to have been notified.

SEC. 10. When a strike has been inaugurated in accordance with the provisions of this article and authorized by the Executive Council or a lock-out has been sanctioned by the Executive Council, there shall be paid an amount sufficient to pay the benefits herein provided. Each member who is the sole support of one or more persons shall receive as a weekly benefit 60 percent of the scale (for day work) and each member who has no such dependents shall receive 40 percent. If there are two or more separate scales in the jurisdiction, the benefits shall be based on the highest of these scales (for day work). In any event not less than \$36 per week shall be allowed for each member with one or more dependents and not less than \$24 per week for each member without dependents. Payment of benefits may be discontinued at such time as the Executive Council deems wise and names may be added to or removed from the strike roll at discretion of the Executive Council: *Provided*, No member shall be entitled to strike benefits until a strike has been in progress one week and said strike or lock-out shall have caused his income at the trade to cease, except as provided in section 12 hereof.

SEC. 11. No subordinate union shall be allowed to increase the statutory benefits without the sanction of the Executive Council, unless the said subordinate union pays such increase out of its own treasury.

SEC. 12. No member of a subordinate union on strike shall be entitled to the weekly benefit unless he reports daily to the proper officer of the subordinate union while the strike continues. Any member refusing work while out on strike shall be debarred from all benefits under this law, and for each day's work performed in excess of one shift one-fourth of the member's regular strike benefits for that week shall be deducted.

SEC. 13. All moneys received by a union from the International Typographical Union shall be used, with the approval of the Executive Council, in supporting men on a strike or lock-out, in assisting their removal to other cities, paying the necessary expenses of the conflict, and prosecuting strikes in such further manner as the union interested and the Executive Council shall deem advisable.

SEC. 14. During the continuance of a strike the executive board of a subordinate union shall make weekly reports to the Secretary-Treasurer of the International Union, showing the amount of money distributed for benefits, number of beneficiaries—heads of families and single persons, union or nonunion—and all other facts that may be required. All moneys from the International Union remaining unused by the local union shall be returned to the Executive Council.

SEC. 15. No strike shall be inaugurated by a subordinate union prior to at least one year after the issuance of its charter.

SEC. 16. In the event of a general strike in any city or town where several offices are involved, no union force of men shall refuse to work for a proprietor who agrees to pay the scale, if they have the consent of the local union.

SEC. 17. The International Union disapproves of the division of members of subordinate unions into distinct classes in the settlement of questions, believing it to be the right and duty of each member to vote on such occasions.

SEC. 18. All monies received by the Secretary-Treasurer for defense purposes may be expended by the Executive Council as otherwise provided by law and for such other defense purposes as the Executive Council deems useful in advancing the interests of the International Typographical Union, its subordinate unions and members, including expenditures occurring in connection with any strike or lock-out, publicity campaigns, expenses incurred in establishing or encouraging the establishment of enterprises to compete with or replace any establishment where a strike or lock-out is or has been in progress or is threatened or any other means which, in the judgment of the Executive Council, would advance the interests of the International Typographical Union, its subordinate local unions, or its members, through any action deemed by the Executive Council to be defensive in character.

SEC. 19. Where one employer operates more than one plant or establishment local unions in whose jurisdiction such plants or establishments are located may take such joint action as is lawful under civil law after approval by the Executive Council.

## ARTICLE XX. SUBORDINATE UNIONS AND OFFICERS

SECTION 1. Subordinate unions are required to elect three auditors, or select an expert accountant or accountants, whose duty it shall be to examine all the books and records of their financial officers for the quarterly periods May-June-July, August-September-October, November-December-January, February-March-April, and report to the Secretary-Treasurer of the International Typographical Union by the twentieth of the month following the end of the quarter, the condition of the funds and accounts, the number of members in good standing, number initiated, expelled or suspended, admitted or withdrawn by card for each month, the amount of the fiduciary officers' bonds and the company in which they are bonded, the amounts expended in sick relief, funeral benefits, or in any form of charity, together with such other information as the Executive Council may deem necessary. A majority of the auditors, or the expert accountant or accountants, must be present at the examination of the accounts, and no member of the committee, and no accountant, shall attach his or her signature to a report unless such member or accountant shall have personally participated in such examination. The president of the subordinate union shall sign the quarterly report attesting that the auditing committee or certified accountant has audited the books as stated therein. Should inaccuracies appear in the report of an auditing committee, the President of the International Typographical Union shall appoint an expert accountant to examine the books of the union in which such inaccuracy

cies are noted, who shall report his findings to the President of the International Typographical Union, he in turn to file the same with the president of the union concerned, who, in event of willful falsification by said auditing committee, shall suspend such committee from office, together with the delinquent financial officer or officers, and impose upon each of them a fine of \$10, which fine shall be forwarded to the Secretary-Treasurer of the International Typographical Union. In the event of the suspension of an auditing committee, an election of their successors shall be held within one month from the date of such suspension, or expert accountants shall be appointed. Expenses of examination of books and records shall be borne entirely by the subordinate unions. Subordinate unions failing to report to the Secretary-Treasurer of the International Typographical Union, as required by this section, shall be fined \$25.

SEC. 2. Every local union subordinate to the International Typographical Union shall cause its fiduciary officers to be bonded in the sum of at least \$1,000. Such bonds shall be filed with the Secretary-Treasurer of the International Typographical Union. It shall be the duty of the Secretary-Treasurer of the International Typographical Union when any subordinate union fails or refuses to comply with provisions of this section to provide a bond of the amount herein provided, the cost thereof to be paid from the general fund and charged to the delinquent union. A subordinate union failing to reimburse the International Union for money so expended within thirty days shall be subject to a fine of not more than \$25 at the discretion of the Executive Council. The fiduciary bonds of local officers shall be issued by the International Typographical Union at an annual premium fixed by the Executive Council in the amount sufficient to maintain a fund from which to pay losses.

SEC. 3. Where a subordinate union alleges misappropriation, default or shortage in the accounts of a financial official bonded by the International Typographical Union and makes claim for payment under the provision of its bond, such claim shall be substantiated by an audit of the books and records of the officer involved, either by certified accountant or by local union auditing committee, as the Executive Council may require. Such audit shall be submitted to the local union and, if accepted by majority vote, such acceptance shall be binding as regards the fact of misappropriation or defalcation. The local union shall report the full circumstances and details to the Executive Council of the International Typographical Union for such action as that body shall deem proper. The Executive Council shall have power to further investigate and make payment under the bond of such amount as in its judgment is verified and may in its discretion summarily expel the officer found to have defaulted in his accounts to the local union.

SEC. 4. The funds of each local union deposited in bank shall be deposited in the name of the local union, and money shall be drawn from the account only by checks signed by the president and secretary-treasurer, and only then when both officials are fully satisfied that such money is lawfully and justly due the person or persons for whose benefit the check is drawn. Bonds or other securities owned by local unions shall be deposited in safety deposit boxes which can only be opened in the presence of such officers as are provided by local union laws, but no less than three, two of whom shall be the president and secretary-treasurer.

Where a certified accountant is not employed to make audits, one member of the local auditing committee shall be the third member. Should inaccuracies appear in the accounts of the local union, or if the president of the local union has reason to believe there is a shortage or misappropriation of funds, he shall at once report the matter to the President of the International Typographical Union for investigation. In the absence of the president of the local union, and in cases where the offices of president and secretary-treasurer are combined, the vice president shall perform those duties of the president hereinbefore specified.

SEC. 5. Secretaries of subordinate unions are required to file with the statistical bureau of the International Typographical Union, upon blanks when furnished by said bureau, a detailed statement of population, scale of prices, hours of labor and such other particulars as are found to be necessary for the keeping of a proper record at headquarters. It shall be the duty of the officer in charge of the statistical bureau to codify such statistics and to print in pamphlet form such number of copies as may be necessary to meet the requirements of the International and local unions.

SEC. 6. Subordinate unions shall fix a time and date for regular monthly meetings that will permit members holding situations on seven-day newspapers to attend these meetings.

SEC. 7. Subordinate unions shall create a standing label committee, whose duty it shall be, in cooperation with the International President, to encourage, by systematic campaign, the use of the allied printing trades council label, or the typographical label, on all printed matter, as well as the purchase by all members of only goods bearing the union label of crafts other than the printing trades. It shall be the duty of such label committee, immediately upon organization, to forward to the President of the International Typographical Union the name and address of the secretary of said committee.

SEC. 8. Subordinate unions, through the proper officers, shall purchase monthly the International due stamps or stamped working cards in sufficient quantities to permit the issuance of either a stamp or stamped working card to each member of the local union.

SEC. 9. Returns of per capita tax from subordinate unions shall be made monthly, under seal, to the Secretary-Treasurer of the International Typographical Union. These returns shall state the number of members of the union and the amount so forwarded.

SEC. 10. It is enjoined upon each subordinate union to have a suitable seal engraved, to authenticate all documents.

SEC. 11. An appeal for financial aid from a local union to subordinate unions to be legal must bear the printed approval of the Executive Council.

SEC. 12. It shall be the duty of presidents of subordinate unions to correct all violations of law of the International Typographical Union within their jurisdiction and when unable to do so, they shall refer the matter to their local unions for action.

SEC. 13. Presidents of all local unions shall appoint three members whose duty it shall be to visit, at least twice each year, the different newspaper and job offices in their jurisdiction, and at the next regular meeting make a report of their finding as to the sanitary condition of places visited.

SEC. 14. Each subordinate union shall appoint or elect a label committee, whose duty it shall be to promote a demand for the use of the label on all printed matter. It is recommended that special attention be paid to schoolbooks, the printed matter of all fraternal organizations, and to magazines and periodicals circulated in their jurisdiction. It shall also be the duty of this committee to procure information as to where union-label goods may be purchased in each local jurisdiction.

SEC. 15. It shall be the duty of the secretary of each subordinate union to furnish monthly to the Secretary-Treasurer of the International Typographical Union a statement of all rejections, expulsions, suspensions, and reinstatements, and the reasons therefor; and also a monthly statement of the condition of the trade and other matters of interest to the craft in the jurisdiction of his union.

SEC. 16. Secretaries of subordinate unions are instructed to answer all correspondence from sister unions as soon as possible after receiving the same. All correspondence between subordinate unions as to character, etc., of applicants for membership, and all other business of like nature, shall be conducted in sealed envelopes.

SEC. 17. On issuing a working, traveling or honorable withdrawal card, the secretary of the local union granting such card shall place thereon the register number of the member receiving the same. In no case shall any other number except that given by the Secretary-Treasurer of the International Typographical Union be assigned a member or placed on the card held by him.

SEC. 18. Each local union shall report monthly, through its secretary, on forms provided by the Secretary-Treasurer of the International Typographical Union, the number of due stamps received, used, and remaining on hand, the names and ages of all new members initiated, with the date of their initiation; the names and register numbers of all members suspended, expelled, or reinstated, with the date of same; all traveling and honorable withdrawal cards received, with date, name, and register number of cardholder; all traveling and honorable withdrawal cards issued, with date, name, and register number of member; the name and register number of all members lost by death and the date of death, together with such other data as may be required for the completion of a member's record or deemed necessary by the Executive Council for the use of the International Typographical Union.

SEC. 19. It shall be the duty of each local union to keep a record of all its members in such manner as will permit of the making of monthly reports and furnishing the data provided for in the preceding sections. Any local union failing to make monthly reports, as provided herein, shall be fined \$10.

SEC. 20. It shall be the duty of presidents of subordinate unions to report within ten days to the President of the International Typographical Union full information concerning the unionization of shops in their jurisdictions, the number of employees taken into the union and any other information that might prove of value to other local unions.

#### POWERS OF

SEC. 21. A subordinate union may take political action when the interests of organized labor as a whole and the craft in particular may be benefited thereby: *Provided*, No subordinate union shall assess its members for partisan political purposes.

SEC. 22. No boycott shall be levied by any local union whereby a sister union subordinate to the International Typographical Union, or members thereof, may be affected, without the specific consent of the union so affected: *Provided*, The union desiring to boycott shall have the right of appeal to the Executive Council of the International Typographical Union, which shall give all interested parties a full hearing before rendering a decision.

SEC. 23. A union has no right to set apart a day as a national holiday and declare members unfair because they do not observe the same, although ordered by the union to do so.

SEC. 24. It is optional with subordinate unions to impose fines on members for failure to participate in Labor Day parades, when such subordinate unions, by a majority vote of members in good standing, at a regular meeting or a special meeting called for that purpose, shall decide to participate in Labor Day parades.

SEC. 25. Subordinate unions, acting in conjunction with the Executive Council of the International Typographical Union, have a right to declare a general amnesty for a set period to non-unionists working in the territory under their jurisdiction.

[Local unions desiring to apply the foregoing section must conform with instructions adopted by the Charleston convention of 1928, as follows: (1) Permission to accept applications under amnesty must be secured of the Executive Council of the International Typographical Union. (2) A resolution requesting such permission must be adopted by the subordinate union, stipulating the period of time such amnesty is to apply. (3) At the same time subordinate unions may confer organization powers upon local officers or a committee or a representative of the International Union. (4) Where such power is conferred and permission given by the International Typographical Union Executive Council, applicants for membership who are competent workmen may be accepted into membership and obligated without submitting their applications to a vote of the local union. (5) The power conferred and permission granted by the Executive Council may be restricted by the council to a particular office or offices, and the council may impose such further restrictions as in its judgment are necessary for the protection of the interests of the union. (6) Where a subordinate union does not confer authority as above indicated to its officers or a committee, as provided for in instruction 3, applications must be submitted to a vote of the local union, but the application is accepted by majority vote instead of three-fourths vote as required by section 10, article xvi, by-laws. (7) That in unorganized territory and in offices over which the local union exercises no jurisdiction, representatives of the International Typographical Union may be authorized by the Executive Council to obligate applicants under the same conditions as those applying to local unions operating under general amnesty.]

SEC. 26. Individuals or subordinate unions are forbidden to use the name of the International Typographical Union in any manner in soliciting advertising for convention souvenirs.

SEC. 27. Subordinate unions have no authority to confer upon any person honorary membership. Conventions only can confer such honorary membership in the International Typographical Union.

SEC. 28. Proposals to increase or decrease local dues or levy a special assessment may be adopted only by majority vote by referendum of six-month members. Ballots shall plainly explain necessity for the proposed change. Whenever it is proposed that special assessment shall be made for more than one purpose, each proposition must be voted upon separately. Provision must be made for a specific date on which the collection of each special assessment shall be discontinued. Special assessments levied by local unions must apply to all classes of members actively engaged at the printing trade in a manner that is equitable.

SEC. 29. A subordinate union may revoke the membership of any member within one year of admission if upon due trial in accordance with the provisions of article iv, of these by-laws, it should be established that admission was gained by fraudulent means or upon the basis of false or misleading statements in application for membership.

## RECOMMENDATIONS TO

SEC. 30. While it is the sense of the International Union that subordinate unions, and they only, have at all times the right of judging of the qualifications of the applicants for admission to membership, it is believed the true policy of subordinate unions should be to go to the utmost limits consistent with safety and honor in receiving into membership all unfair printers who make application to that effect, and who evince a desire to again become fair men.

SEC. 31. Subordinate unions are recommended to adopt a conciliatory method of making important changes in their scale of prices, and before any change in the scale of prices is sought to be made effective such proposed change shall be submitted to all the publishers interested. The International Union, when requested, shall allow a representative of the American Newspaper Publishers' Association, the Printers' League of America or Printers' National Association to be heard on important changes affecting their interests.

SEC. 32. The International Union recommends that a day's work on daily papers be restricted as nearly as possible to six hours' composition.

SEC. 33. The International Union directs subordinate unions to use their influence in having all work sent into shops employing members of unions represented in the allied printing trades.

SEC. 34. The International Union recommends to subordinate unions the percentage system of collecting dues where practicable. Where the percentage system is adopted the rate shall be uniform on all earnings.

SEC. 35. It is the sense of the International Union that the system of rebate dues is legal.

SEC. 36. Subordinate unions are recommended to print in labor journals of their localities a list of union printing offices, so that officers and members, societies, and others favorable to organized labor may be kept posted as to what offices are fair.

SEC. 37. The International Typographical Union recommends that subordinate unions publish the names of all firms, corporations, and individuals engaged in the printing industry which do not pay the scale of prices, or which do not observe the established customs of the several unions.

SEC. 38. Local unions are directed to affiliate with and attach themselves to the various central bodies in their localities, and are directed to give preference to bodies chartered by the American Federation of Labor.

SEC. 39. Members should purchase, where possible, such goods as bear the trades union label recognized by the International Union.

SEC. 40. No member of the International Typographical Union shall purchase products of nonunion labor when goods made under favorable conditions can be obtained. Subordinate unions shall enact laws to carry out the provisions of this section.

SEC. 41. It is recommended that all subordinate unions be required to issue to their members tickets or cards bearing the union label, and a request to the merchants with whom they deal that they insist on having their printing done by union labor only. That subordinate unions be required to endeavor to secure their use by the members of other trade unions and friends of organized labor.

SEC. 42. It is the sense of the International Typographical Union that each subordinate union should make provision for such of its members as are unable to obtain the scale through disability—the union to be the judge—by placing them on a special list, and allowing them to seek work under conditions prescribed by such union.

SEC. 43. In localities where mailers' unions are instituted, but not recognized by the employers, local typographical unions when negotiating scales and new working agreements shall endeavor to procure recognition for such organization of mailers before signing new agreements.

SEC. 44. The value of the state and provincial federations of the American Federation of Labor to the labor movement of the respective states and provinces is unquestioned. Typographical unions have every reason to take an active part in the work and deliberations of those bodies. Active interest and affiliation by our local unions beget the more hearty support of the entire labor movement.

That these desirable results accruing from affiliation with state and provincial branches, American Federation of Labor, may become effective, it is recommended that local typographical unions become affiliated with the state and provincial branches, American Federation of Labor, of their respective states and provinces.

#### ARTICLE XXI. TRAVELING CARDS

SECTION 1. Members in good standing who are desirous of leaving the jurisdiction of the union to which they belong shall be entitled to receive the International Typographical Union traveling card, which shall be furnished upon the payment of all financial obligations. A member accepting such card severs all connections with the issuing union. Where traveling cards are withdrawn and returned to the local union issuing same more than twice in thirty days a charge of 25 cents each shall be made for all cards issued after the first.

SEC. 2. The said traveling card shall be in words as follows:

THIS IS TO CERTIFY THAT-----, the  
bearer hereof, whose signature appears in this certificate, is a member in good  
standing of the International Typographical Union and is entitled to the friend-  
ship and good offices of all unions under the jurisdiction of the International  
Typographical Union.

The bearer has paid International Union per capita tax for the month  
of-----, 19----- Register No.-----;  
Social Security No.----- Given under our hand, and the  
seal of----- Union No.-----,  
this day of----- 19-----

(Seal) ----- President.  
----- Secretary.

----- Member's Signature.  
Countersigned-----, Secretary-Treasurer,  
International Typographical Union.

*This card expires in two months from the time the last International due stamp thereon shows dues to have been paid. It may be renewed within two months after its expiration.*

*Any member of the International Typographical Union stands suspended when four months in arrears for local or International dues and assessments. (Sec. 7, article vii, bylaws.) Suspended members may be reinstated as provided in article xri, bylaws, within one year after suspension.*

The reverse side of said card shall contain these words:

Deposited with----- Union No.-----  
on the----- day of----- 19-----.

SEC. 3. Any member receiving such card shall deposit the same with the proper union officer when accepting work within the jurisdiction of a local union: *Provided*, This shall not prevent sister unions from mutually agreeing to recognize each other's current working cards for a period of thirty days. Any member neglecting his duty as prescribed in this section may be tried for violation of International Union law, and, upon conviction, be punished as deemed just by the local union in whose jurisdiction the offense was committed.

SEC. 4. The secretary of a subordinate union shall receive an International traveling card at any time if the card be clear and within date and no charge pending against the holder: *Provided*, When card is issued from a subordinate union of another language than that in which it is offered for deposit recipient union may require that holder pass language and competency test before admission. Membership in said union shall date from time of said reception and any person admitted by such card shall be exempt from the usual initiation fee and from any assessments of which he is not a beneficiary.

SEC. 5. International cards must be received (if clear and within date), notwithstanding the fact that charges may be pending in a sister union against an officer of the union issuing the same: *Provided*, Such charges were not made known to said union previous to the issuance of such card.

SEC. 6. In case of a strike involving one-third of the situations within the jurisdiction of a union, said union may refuse to receive cards for a period of not exceeding three months, or, with the consent of the International President, for the duration of the strike. In case of fire, flood, tornado, earthquake, pestilence, or similar catastrophe, amounting to public calamity, the Executive Council may, in its discretion, grant permission to unions in localities thus afflicted to refuse to accept traveling cards during such periods as such calamitous conditions con-



tinue: *Provided*, That when, for any reason, a serious condition of unemployment exists in the jurisdiction, a subordinate union may, with consent of the Executive Council, refuse to accept traveling cards for a specified period.

SEC. 7. It is contrary to union principles for any person holding an International traveling card to go to work in a town or city where no union exists, during the progress of a strike, without the consent of the parties engaged in such strike, and the union issuing such traveling card has the power, upon sufficient proof being furnished, to revoke it and publish the holder as an unfair man.

SEC. 8. A subordinate union cannot be compelled to grant a card to a member against whom charges are pending.

SEC. 9. A subordinate union cannot be compelled to grant a traveling card to a member who is financially indebted to the local union for dues, assessments, or for loans granted by the union, either from its treasury or from relief funds, societies or associations, financed in whole or part by the local union.

SEC. 10. All traveling cards issued by subordinate unions must have the seal of the issuing union stamped thereon, and all signatures, dates and names shall be in ink.

SEC. 11. When the secretary of a subordinate union issues a traveling card, he shall require that the member receiving such card shall place in the blank provided for that purpose his (the member's) signature in the presence of the secretary, and the secretary receiving a traveling card shall require the holder to sign his name on back of said card for comparison, and should there be a discrepancy in the signatures, the secretary shall take up the card pending investigation. Any violation of this section shall be punishable by a fine of \$5. This shall not apply to cards forwarded by mail.

SEC. 12. All traveling cards deposited with a local union shall be endorsed with the date of deposit and the name and number of the union and forwarded to the Secretary-Treasurer of the International Typographical Union.

SEC. 13. When a card is issued to a member of the allied crafts, chartered by the International Typographical Union, the secretary issuing such card shall insert after the member's name the craft to which he belongs. All allied craftsmen must deposit their cards with the union of their craft, if one be in existence where they are located, in order to protect their membership in the International Typographical Union. When, in the opinion of the Executive Council, there is a sufficient number of members of any allied craft in a local typographical union, and the best interests of the organization will be subserved thereby, they shall be directed to apply for a charter and organize a local union of their own craft.

SEC. 14. A change in the secretary-treasurership of the International Union does not invalidate a clear card, within date, signed by a former secretary-treasurer. The blank cards furnished subordinate unions are good until used if the union remains in existence as a part of the International organization.

SEC. 15. Traveling cards issued by a subordinate union after its charter has been suspended or revoked shall not be honored by local unions, but any member of such a union, upon furnishing the Secretary-Treasurer with sufficient proof of membership, shall, upon the payment of all arrearages to the International Union, be entitled to and receive a traveling card from the Secretary-Treasurer of the International Typographical Union.

SEC. 16. The duly attested cards of all persons from foreign typographical unions, which unions will reciprocate in kind, on payment of the International Typographical Union registration fee, shall be received by subordinate unions and their holders admitted to membership in like manner as though presenting a traveling card of the International Union: *Provided*, That recipient subordinate unions may require that holder pass language and competency test before admission: *Provided, further*, That any person presenting a duly attested card from a foreign union who has previously been a member of the International Typographical Union shall be exempt from payment of the registration fee to the International Typographical Union.

#### RENEWAL AND REISSUE

SEC. 17. Where a union member who has been for a length of time so located as to make it unnecessary for him to deposit his card, under the workings of our system, until after it has expired by limitation, presents his card for renewal to a local union, such union, on the payment of accrued International per capita tax and assessments from date of issuance to date of such renewal, provided such time does not exceed four months (and no local fees whatsoever shall be chargeable), shall promptly renew such card, provided the application for renewal be

accompanied by satisfactory evidence that the applicant has not in the meantime been guilty of any antiunion conduct. Any member holding a traveling card shall stand suspended as provided in section 7, article vii, by-laws, when four months in arrears for International dues and assessments, and must reinstate as provided in article xvi, by-laws. Nothing herein shall be held as preventing such member from making application as a new member if he so elects, and the financial secretary shall report to the Secretary-Treasurer of the International Typographical Union all collections made for arrearages for each month in sequence. No dues, assessments, or fees of any kind can be collected for any one month unless the indebtedness for all previous months has been liquidated. Should the union issuing such card have in the meantime ceased to exist, it is the right of the union man holding such card to have it accepted by any subordinate union on his showing to the satisfaction of such union that his record has been a clear one since the date of issue of such card. Unexpired traveling cards must be renewed by local unions, on presentation by the holders of satisfactory evidence of union conduct, and the payment of International per capita tax and assessments. Traveling cards may be renewed by the International Secretary-Treasurer under the foregoing conditions.

SEC. 18. When a member loses his traveling card he can only receive a duplicate thereof by applying to the Secretary-Treasurer of the International Union, who shall issue such duplicate on the payment of \$1 after sufficient time has elapsed for an investigation to be made. Duplicates shall be furnished from a series separate from the regular traveling cards and have printed thereon the words "Duplicate Card." No duplicate for a lost traveling card shall be issued to any member unless application therefor is made within thirty days from the time such card is lost.

#### ARTICLE XXII. TYPOGRAPHICAL JOURNAL

SECTION 1. The Typographical Journal shall be published once a month and shall contain in addition to the reports and other matters required by law to be published, the reports of the International and Home audits; official orders; charters granted; charters suspended, and the causes; a list of deceased members with register numbers; state of trade; advertisements meeting the approval of the Executive Council; all reports (including detailed statement of expenditures) and proceedings of the officers and members of the corporation of the Union Printers Home; and such other matters as may be of interest and importance to the craft generally.

SEC. 2. Such unions as desire to publish a list of the names of their officers shall be charged therefor at the rate of \$1 per line per year.

SEC. 3. The subscription rate of The Journal to nonmembers shall be \$2 per annum, postage in addition to foreign subscribers. The price for single copies shall be 20 cents each.

#### ARTICLE XXIII. UNION PRINTERS HOME

SECTION 1. This union hereby ratifies the action of Edward T. Plank, William S. McClevey and Columbus Hall, as its trustees, in conveying the Home at Colorado Springs, in Colorado, to the Union Printers Home corporation as trustee, for the uses and purposes, and upon the trust declared and the terms and conditions stated in the deed by said grantors to said grantees dated the 17th day of May 1892.

SEC. 2. Any member in good standing of any subordinate union shall be deemed a member of the International Typographical Union for the purposes of admission as a resident of the Home at Colorado Springs, Colorado, and of participation in the bounty.

SEC. 3. No person shall be deemed a member in good standing of the International Typographical Union who shall willfully neglect, disregard, or violate any resolution, order, by-law, or duty prescribed by said union of and concerning the management and control of the Home at Colorado Springs, or of the trust upon which said Home is held by the Union Printers Home corporation.

SEC. 4. A full and complete, true and accurate report shall be submitted to each convention of the International Typographical Union by the Board of Trustees of the Union Printers Home, showing its transactions and containing such recommendations as may be useful to the union in furthering the interests of the Home.

SEC. 5. At all times the articles of incorporation of the Board of Trustees of the Union Printers Home, and the constitution and by-laws thereof, shall be further amended in such manner and to such effect as the International Typographical Union may direct.

SEC. 6. The Board of Trustees of the Union Printers Home shall make its best efforts to provide for rehabilitation of war veteran members who may be in need thereof.

#### ARTICLE XXIV—WOMEN MEMBERS

SECTION 1. Equal wages and conditions shall prevail for both sexes in every local jurisdiction of the International Typographical Union, subject to the requirements of the laws of the various states as these laws affect women workers. Any member who violates the provision of this section, upon conviction, shall be punished by a fine of not less than \$25, or suspended, as the union may determine, in accordance with International law.

### GENERAL LAWS

#### ARTICLE I. APPRENTICES

SECTION 1. Apprentices shall not be less than 16 years of age at the time of beginning their apprenticeship. They shall be listed by the secretary of the subordinate union and they shall serve an apprenticeship period of six years before being admitted to journeyman membership in the union: *Provided*, That upon request of the local union and employer, and with the consent of the Bureau of Education of the International Typographical Union, an apprentice may be upgraded when he has shown he has applied himself to his work and studies sufficiently to warrant advancement. Failure of apprentice member on completion of his apprenticeship period to file his application for transfer to the journeyman roll shall be sufficient cause for cancellation of his apprenticeship.

SEC. 2. Subordinate unions are prohibited from transferring apprentice members to journeyman membership until the applicant for such transfer has been certified by the Bureau of Education as having completed the Course of Lessons in Printing, or has received certification of such completion from a school duly accredited by said Bureau of Education. *Provided*, That the foregoing shall in no wise nullify the provisions of section 4 of this article, or the authority of the President of the International Typographical Union to waive completion of the Course of Lessons in Printing: *Provided, further*, That unless the provisions of this section have been complied with, no journeyman register number shall be assigned to an apprentice member: *Provided still further*, That in the case of an apprentice whose time has been interrupted for a period of not less than ninety days, by reason of his having served in the armed forces of the United States or under the National Security Act of 1948, local unions may establish regulations granting to said apprentice that priority standing, in the chapel in which he has served his time, which would have accrued to him, had not his time been interrupted by his having served in the armed forces; said apprentice to comply with all apprenticeship obligations, including completion of the Lessons in Printing.

SEC. 3. Mailer and machinist apprentices shall be exempt from the requirement that the Course of Lessons in Printing must be completed before transfer to journeyman membership: *Provided, however*, that upon application for apprenticeship all such apprentices must subscribe for, and complete the Course of Lessons in Unionism before admission as journeymen.

SEC. 4. All persons before entering the trade as apprentices shall first be approved by the local union. They must pass a technical examination given by the union's apprentice committee. A physical examination must also be made by a qualified medical examiner, approved by the local union. The medical and other examinations must show fitness and adaptability to the trade. The physical examination shall be entered on the medical certificate, printed on the reverse side of the Application for Apprentice membership which shall be filed and used as such at the beginning of the second year of apprenticeship as provided in section 7.

SEC. 5. No apprentice shall leave one office and enter that of another employer without the written consent of the president of the local union, and the date of such change of offices by the apprentice shall be recorded on the books of the union.

SEC. 6. All local unions are required to enact laws defining the grade and classes of work apprentices shall be taught from year to year, so that they will have the opportunity of acquiring a thorough knowledge of the trade. No office shall be entitled to employ an apprentice unless it has the equipment necessary to enable instruction being given the apprentice in the several classes of work agreed upon in the contract with the employer to be taught each year.

SEC. 7. At the end of the first year, if the apprentice proves competent, and the foreman and apprentice committee recommend him for apprentice membership, he must be admitted into the union as an apprentice member, and his application blank with the medical examination on the reverse side be forwarded to the International Typographical Union Secretary-Treasurer for an apprentice register number.

SEC. 8. Every person admitted as an apprentice member of a local union at the beginning of the second year of apprenticeship shall subscribe to the following obligation:

*I (give name) hereby solemnly and sincerely swear (or affirm) that I will not reveal any business or proceedings of any meeting of this or any subordinate union to which I may hereafter be attached, unless by order of the union, except to those whom I know to be members in good standing thereof; that I will, without equivocation or evasion, and to the best of my ability, abide by the constitution, by-laws and the adopted scale of prices of any union to which I may belong, as they apply to apprentice members; that I will at all times, support the laws, regulations and decisions of the International Typographical Union, and will carefully avoid giving aid or succor to its enemies, and use all honorable means within my power to procure employment for members of the International Typographical Union in preference to others; that I will not wrong a member of this union or see him or her wronged, if in my power to prevent. To all of which I pledge my most sacred honor.*

SEC. 9. Apprentice members shall not have the privilege of voting. From the time of registration until such apprentice members are transferred to the journeyman roll, they shall pay per capita tax and subscription to The Typographical Journal as provided in section 1, article ix, constitution. They shall be exempt from pension and mortuary assessments.

SEC. 10. Following initiation the apprentice member shall be registered with the Secretary-Treasurer of the International Typographical Union, who will assign a register number.

SEC. 11. Beginning with the second year, apprentices shall be enrolled in and complete the International Typographical Union Course of Lessons in Printing before being admitted as journeymen members of the union. This course of lessons shall include a course on trade unionism, containing complete information and instruction on the principles of unionism, and to be prepared by the Bureau of Education of the International Typographical Union.

SEC. 12. Starting with the second year apprentices are entitled to and must be in possession of an apprentice working card.

SEC. 13. Arrangements should be made to have apprentices during the last year of apprenticeship instructed on any and all typesetting and typesetting devices in use in the offices where they are employed. Mailer apprentices during the last year of apprenticeship should be instructed on mailing machines in use in the mailing room.

SEC. 14. Apprentices shall be required to complete the ITU Course of Lessons in Printing before being admitted to journeymen membership, except with the consent of the President of the International Typographical Union. The President of the International Typographical Union shall have authority to cancel the card of any person admitted to membership in violation of any of the foregoing provisions and may impose a penalty not to exceed \$25 on offending unions.

SEC. 15. Local unions shall provide for the appointment of a committee on apprentices. The duties of the committee on apprentices shall be to inquire into the educational qualifications of applicants for apprenticeship, examine each apprentice, to ascertain if he is meeting the necessary requirements called for in the several classes of work specified for each year of his apprenticeship, and if, after such examination, the committee finds the apprentice has not made satisfactory progress, it shall so report to the union for such action as it is deemed proper to take; to require the apprentices to take needed courses of study and report any delinquency to the union; to compel all apprentices to complete the ITU Course of Lessons in Printing.

SEC. 16. A local joint apprentice committee composed of equal representation of the employers and the union should be formed to make surveys and study, investigate and report upon apprentice conditions. They shall act to enforce the conditions of the agreement covering apprentices and shall have full power and authority any time during the term of apprenticeship to terminate the apprenticeship of an apprentice who does not show aptitude and proper qualifications for the work, or for any other reason. This committee shall meet jointly at the call of the chairman of each committee at such time and place as may be determined by them.

SEC. 17. Local unions shall incorporate in their contracts with employers a section containing the necessary requirements to carry out the apprenticeship laws of the International Typographical Union.

SEC. 18. The foreman and chairman of the chapel shall see that apprentices are afforded every opportunity to learn the different trade processes by requiring them to work in all classifications of the trade. When apprentices show proficiency in one branch they must be advanced to other classes of work.

SEC. 19. Local unions shall arrange scales of wages for apprentices in each of the years of their apprenticeship, such scales to be indicated as proportionate to journeymen's scale. Apprentices shall be given the same protection as journeymen and shall be governed by the same shop rules, working conditions, and hours of labor.

SEC. 20. Local unions are required to fix the ratio of apprentices to the number of journeymen regularly employed in any and all offices, but it must be provided that at least two members of the subordinate union, aside from the proprietor, shall be regularly employed before an office is entitled to an apprentice.

SEC. 21. For each additional five journeymen regularly employed, an additional apprentice may be permitted: *Provided*, When four apprentices are employed, an additional apprentice for each ten additional journeymen may be employed: *Provided, further*, Nothing in this section shall be construed as prohibiting any subordinate union from inserting in the contract a provision that the total number of apprentices of any office shall be less than four.

SEC. 22. No apprentice shall be employed on overtime work in an office unless the number of journeymen working overtime on the same shift equals the ratio prescribed in the local scale. At no time shall any apprentice have charge of a department or class of work.

SEC. 23. No new apprentices will be permitted to replace those who enlist in or are called for service in the military or naval services of the United States or the Dominion of Canada (or their allies) in time of war or for the duration of any period of national emergency proclaimed by the governments of said countries. No new apprentices will be permitted to replace those drafted in the military or naval services of the United States or Canada. Upon again reporting for duty the situations and standing formerly held by these apprentices shall be restored to them.

SEC. 24. In filling of apprenticeship vacancies, preference shall be given to apprentice members discharged from the military services of the United States and the Dominion of Canada (or their allies) whose term of apprenticeship has been interrupted because of suspensions, mergers, or consolidations of printing offices, or for other reasons, subsequent to their induction into such service.

SEC. 25. Apprentice members shall be encouraged to attend meetings of the union and to take part in label committee and label promotional work.

## ARTICLE II. ARBITRATION

SECTION 1. When disputes arise between subordinate unions or subordinate unions and employers, which cannot be adjusted after conference between the parties at issue, the matter may be settled by arbitration (by mutual agreement).

SEC. 2. It is imperatively ordered that the executive officers of the International Typographical Union shall not submit any of its laws to arbitration.

SEC. 3. It is further provided that no joint arbitration agreement be entered into with the American Newspaper Publishers' Association by the International Typographical Union, unless said agreement shall have first been approved by a majority vote of the membership in a referendum vote.

SEC. 4. Where vacations have been established by contract, the elimination of such provision shall not be submitted to arbitration.

SEC. 5. When any arbitration procedure to which a local union is committed reaches a deadlock where further action cannot result in a conclusion within a reasonable time, the local union may request the Executive Council to release

it from further obligations under such arbitration procedure or agreement. The Executive Council shall have authority to decide that issue and may so release a local union. This section shall not apply to controversies properly before a joint standing committee involving only an interpretation of the terms of the agreement. It does apply to matters involving the laws of the International Typographical Union or to interim wage openings whether or not arbitration is provided.

### ARTICLE III. CONTRACTS

SECTION 1. Contracts between local unions and employers are collective agreements in which the local union as such is a contracting party with an employer or association of employers. It is the obligation of the local union to observe and enforce terms of the contract. The local union as a contracting party has authority to determine differences between its members concerning their rights under the contract, subject to appeal as prescribed by the laws of the union. Where the local union has by contract prescribed a method of determining differences between the employer and the local union as to interpretation and enforcement, such method shall be followed: *Provided*, The laws of the local union not affecting wages, hours or working conditions and the laws of the International Typographical Union shall not be submitted to arbitration.

Where the contract between the local union and employer does not provide a method for the adjudication of differences as to interpretation and enforcement the employer may require the International Typographical Union to interpret the obligations of the local union, provided said contract has been approved by the President of the International Typographical Union as conforming to the laws of the International Typographical Union.

It is our policy that we continue to maintain our long standing reputation for integrity in performing our contracts and carrying out our union commitments.

It is our policy that we maintain our historic rights and prerogatives, to which we are entitled and which we have enjoyed for nearly a century.

We believe that the harmony of our relations which has prevailed, almost without interruption, for many decades between our members, our local unions and their employers, can continue in the future, as in the past, and it is our policy to try to continue it.

We express this belief despite the fact that ill considered legislation has recently been enacted, of which might easily be disastrous to labor-management relations.

We confidently assert that there are certain provisions in the Labor Management Relations Act of 1947 that are unconstitutional and invalid, that certain provisions of it are impracticable and unworkable and that a great deal of it is inequitable and unjust to organized labor.

We believe that as the provisions of this act become generally known, the law will in time be amended to eliminate its defects and inequities.

While there should not be, and will not be, any attempt on the part of the international or subordinate unions to violate any valid provisions of this law, or of any law, federal or state, yet there should be, and will be, earnest endeavors on the part of these unions to avoid any conditions that will result in their being penalized by these laws and to avoid the sacrifice of rights and prerogatives which may be lost by the signing of contracts as heretofore.

The Labor Management Relations Act does not compel the signing of contracts, and refraining from doing so is not a violation or evasion of the law. It will be our policy to refrain from signing contracts in order that we avoid agreeing, or seeming to agree, or voluntarily accepting the conditions created by such a relationship under the Labor Management Relations Act of 1947.

Even the Taft-Hartley Law provides that:

"Nothing in this Act shall be so construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act."

Upon the expiration of existing contracts, and until the laws above referred to are amended and free collective bargaining is again recognized, our members may accept employment only from employers who are willing to employ them under the "Conditions of Employment" which the several unions adopt, after approval by the Executive Council of the ITU.

Our unions will give sixty days' notice before an existing contract may be changed or terminated.

They will notify state and federal conciliation agencies simultaneously thirty days after the original notice.

They will engage in collective bargaining to the extent required by law, bearing in mind that the legal obligation of a "labor organization" under the LMRA to "bargain collectively," meet and confer in good faith with reference to wages, hours, etc., expressly provides as follows: "But such obligation does not compel either party to agree to a proposal or require the making of a concession."

A "Conditions of Employment" form, which must be used by all unions and which is uniform except for local scales and practices, has been printed for the convenience and use of all subordinate unions. The form sets out the conditions under which our members offer their services—so long as they are individually able and willing to work.

It is our policy that local unions do not seek to qualify as representatives under the Labor Management Relations Act, except in special cases, after careful analysis and approval by the Executive Council and that they do not seek to execute so-called "union shop" contracts. The process provided by the Labor Management Relations Act for that type of contract is too lengthy and cumbersome and there are features of such a "union shop" that are unacceptable to our members. Neither may our unions enter into "no strike" agreements or contracts of any kind without approval of the Executive Council.

The International Typographical Union and its local unions and their officers will file any financial reports and affidavits required by law.

Local unions should not file any unfair labor practice charges or petition for investigation or representation, without first consulting the President of the International Typographical Union and obtaining approval of the Executive Council.

We realize that this policy may bring some disappointment to our employers because it provides for unilateral action. It may be possible for those employers who do not approve the policy to prepare unilaterally a set of conditions of employment that would be satisfactory.

The Executive Council is hereby authorized to interpret, construe, and enforce the above policy from August 22, 1947.

Sec. 2. No local union shall sign a contract guaranteeing its members to work for any proprietor, firm, or corporation, unless such contract is in accordance with International law and policy and approved as such by the International President. No member holding active membership in any local union shall sign an individual or private contract with any employer, agreeing to work for any stated length of time, wages, or conditions. The union alone has the power to contract for conditions, wages, and hours.

Sec. 3. No local union shall enter into negotiations with any proprietor, firm, or corporation operating a plant in another jurisdiction which does not actually have a plant in operation or have equipment for such a plant in its particular jurisdiction without first communicating with and having the approval of the International President, and if the contemplated plant is being removed from another jurisdiction, the local union shall also contact the local union or unions in which the plant or plants are now operating.

Sec. 4. Subordinate unions are required to submit to the International President for review and approval, as complying with requirements of International Union laws, all proposals for a new contract, alteration, amendment or extension of an existing contract before presentation to the employer. No contract shall provide for automatic renewal on failure to notify either party thereto of desire to change or terminate the contract.

Sec. 5. Subordinate unions at all times have the right to define as struck work composition executed wholly or in part by nonmembers, and composition or other work coming from or destined for printing concerns which have been declared by the union to be unfair, after which union members may refuse to handle the work classified as struck work.

Sec. 6. Violation of contracts or scales of prices on the part of an employer or his representative should be brought to the attention of the foreman in charge of the department, and if not satisfactorily adjusted, are to be taken up by the officers of the union and the employer.

Sec. 7. No local union shall sign a scale of wages with an overtime clause calling for overtime on any certain day at a rate less than paid for overtime on all other days. Local unions shall incorporate a clause in their scales which provides for the payment of overtime at a rate not less than price and one-half, based on the hourly wage paid.

Sec. 8. Members of the International Typographical Union shall not be permitted to operate a portion of a printing plant, or an entire printing plant, for a portion of the time, under contract or sub-contract. Members can only

engage in business as employers when they own and control the establishment. This shall not apply to bona fide recorded leases for a term of one year or more under the terms of which the member-lessee exercises control over the establishment and prices of the products thereof. No member of the International Typographical Union can evade any of its laws as applying to members generally by having transferred to himself a nominal amount of stock in a company or corporation organized for the purpose of conducting a printing plant; nor does the holding of the position of director in such company or corporation constitute him a proprietor unless he be able to prove that he is a bona fide stockholder therein and that his block of stock in the company or corporation bears such relation to the whole capital stock as to show that the partnership is a genuine business transaction.

SEC. 9. Where copyholders, in addition to proofreaders, are employed, local unions are directed, where possible, to incorporate in the contracts a provision that members of the union be employed as such copyholders, and that a scale be made for such work.

SEC. 10. Subordinate unions, when making contracts or wage agreements, must insert a clause therein providing that no member when employed shall be paid for less than a full shift except when discharged for cause or when excused at the member's own request.

SEC. 11. Local unions must incorporate in contracts a provision that all composing-room work appertaining to printing and the preparations therefor, shall be done by journeymen or apprentices, and must further provide for the elimination of all so-called miscellaneous or composing room helpers by agreement that as vacancies occur they shall be filled (if needed) by journeymen or apprentices.

SEC. 12. It is the unalterable policy of the International Typographical Union that all composing room work or any machinery or process appertaining to printing and the preparations therefor belongs to and is under the jurisdiction of the International Typographical Union. Subordinate unions are hereby directed to reclaim jurisdiction over and control of all composing room work or any machinery or process appertaining to printing and the preparations thereof now being performed by non-members.

SEC. 13. Subordinate unions shall incorporate in proposed contracts a clause providing for holidays with pay; annual vacations with pay; severance pay of not less than two weeks pay for each year of priority in the office for all members affected by suspension or mergers, hospitalization and pay allowances for sickness or accident; and severance pay of two weeks' pay for each year of continuous priority for situation holders laid off to reduce the force.

SEC. 14. Subordinate unions shall provide in proposed contracts that night work shall be paid for at not less than 10 percent over the day scale.

SEC. 15. Subordinate unions must incorporate in proposed contracts a vacation provision that when a member ceases employment for any reason he shall receive pay for accumulated vacation credits.

SEC. 16. Subordinate unions shall incorporate in proposed contracts a clause which provides for the payment of overtime at a rate not less than double time, based on the hourly wage rate.

#### SCALES

SEC. 17. Work in foreign languages shall be at the scale rates of the particular union having jurisdiction: *Provided*, That in no case shall English composition be at a lesser rate than that of the typographical union. Nor shall foreign composition in English offices be done at a lesser rate or longer hours worked thereon than is in vogue in offices under the jurisdiction of such foreign language union.

SEC. 18. No member shall represent proprietors in scale negotiations, except with the consent of the local union. This section shall also apply to holders of honorable withdrawal cards.

SEC. 19. The International Typographical Union relegates to subordinate unions authority to establish in contracts provisions governing the disposal of extra work. In filling regular situations contracts must provide substitute oldest in continuous service shall have prior rights in filling the first vacancy.

SEC. 20. Subordinate unions must insert in proposed contracts provisions that priority members shall have choice of new shifts, new starting times, new phalanx days and choice of vacation schedule.

SEC. 21. Subordinate unions must incorporate in contracts a provision fixing the hours designating day work and night work. Day work shall be between 7 A. M. and 6 P. M. Night work shall be between 6 P. M. and 7 A. M. For shifts which



do not begin and end within the hours specified for day work, not less than the night rate shall be paid.

SEC. 22. Subordinate unions shall incorporate in proposed contracts and wage agreements a clause providing for shorter hours, with still shorter hours on the night shift than on the day shift until the unit of thirty hours a week has been reached.

SEC. 23. Subordinate unions must include in contracts or commitments a provision that members may absent themselves from the shop during voting hours on primary and general election days without being subject to discipline.

#### ARTICLE IV. DEPARTMENTS

SECTION 1. The recognition of departments shall be optional with local unions. Establishment of departments shall be by agreement and such departments as are recognized shall be enumerated.

SEC. 2. When departments are recognized priority shall date from time of accepting work in the department either by original employment or permanent transfer.

SEC. 3. When departments are not recognized an employe shall not be discharged to reduce the force or for incompetency while there is work in the office he is competent to perform and to which his priority entitles him.

SEC. 4. When departments are recognized by agreement no transfers shall be made except in emergencies: *Provided*, When all available extras are hired in any department transfers may be made into that department.

SEC. 5. Regulations applying to transfers are for the purpose of preventing discrimination in the hiring of members seeking work as extras. The hiring of more members than are needed in one class of work or department and later transferring them to work which could have been done by others entitled thereto because of their priority is discriminatory. It is also discriminatory to transfer a situation holder or extra when such transfer results in members not being hired who have priority superior to those transferred.

SEC. 6. Transfers are not required to permit members to exercise priority upon a vacancy, either regular or extra, which the member is not qualified to fill: *Provided*, Transfers made for the convenience of the office shall be made to permit cancellation of overtime or observance of the five-day law and for the convenience of members desiring to engage a substitute.

SEC. 7. Members transferred to a class of work upon which they do not claim competency shall not be discharged for incompetency nor shall a foreman be permitted to make transfers which are discriminatory or for the purpose of depriving other members of work to which they are by priority entitled.

#### ARTICLE V. FOREMEN

SECTION 1. In union shops the foreman is the only recognized authority. Assistants may be designated to direct the work, but only the foreman may employ and discharge. In filling vacancies the foreman shall be governed by the provisions of article x, general laws.

SEC. 2. The foreman may discharge (1) for incompetency; (2) for neglect of duty; (3) for violation of office rules which shall be kept conspicuously posted, and which shall in no way abridge the civil rights of employes, or their rights under accepted International Typographical Union laws. A discharged member shall have the right to appeal in accordance with the laws of the International Union as provided in the contract, and shall have the right to challenge the fairness of any office rule which is applied to bring about his discharge.

SEC. 3. When it becomes necessary to decrease the force in an office where departments are not recognized it shall be determined upon what class of work the reduction is required. The member with lowest priority standing in the office engaged upon the class of work indicated shall be discharged first: *Provided*, The member to be discharged may claim any other work in the office he is competent to do which is being performed by a member with lower priority standing: *Provided, further*, A member claiming other work to avoid discharge to reduce the force shall not be exempt from discharge if incompetent.

SEC. 4. In offices where departments are recognized a decrease in the force shall be accomplished by discharging first the member holding a situation who has the lowest priority standing in the department in which decrease is necessary.

SEC. 5. A member discharged to reduce the force shall be re-employed, either as regular or extra, upon work he is competent to perform in the order of his priority standing.

SEC. 6. When a member is discharged for any reason, he may demand and the foreman shall give in writing, the reason for discharge: *Provided*, Such demand shall be made within seventy two hours after member is informed of discharge.

SEC. 7. A member who believes he has been illegally or unjustly discharged shall have the right to appeal to the subordinate union in the manner provided by the laws of such subordinate union. If the subordinate union orders reinstatement the decision must be complied with until reversed. Either party may appeal to the Executive Council as provided herein: *Provided*, When a subordinate union has made specific provision in its contract for reference of controversies over discharge to a joint agency, the dispute shall be decided as provided in the contract. A member who has been discharged for any reason other than to reduce the force may be reinstated at the option of the foreman, or by proceeding in accordance with the terms of this section. A member discharged for incompetency, neglect of duty or a minor reason shall not be denied the privilege of seeking work in the office for a period longer than six months.

SEC. 8. A foreman shall not designate any particular day, nor how many days a member shall work in any one week: *Provided*, The member must engage a substitute when absent. Any member covering a situation is entitled to and may employ in his stead whenever so disposed any competent member of the International Typographical Union without consultation or approval of the foreman: *Provided*, Local unions may adopt laws requiring the employment of substitutes in the order of their priority standing; or for specified periods in severe unemployment emergencies, with the consent of the Executive Council, may establish provisions for equitable distribution of subbing among eligible substitutes.

SEC. 9. A foreman shall not be permitted to select his force from day to day, but must have such number of regular situations as are necessary to meet requirements and to reduce employment of extras to a minimum. Employment other than for regular situations shall be classed as extra work.

SEC. 10. All persons performing the work of foremen or journeymen, at any branch of the printing trade, in offices under the jurisdiction of the International Typographical Union, must be active members of the local union of their craft and entitled to all the privileges and benefits of membership.

SEC. 11. The International Typographical Union recognizes only two classes of labor in union shops, journeymen and apprentices.

#### ARTICLE VI. LABELS

SECTION 1. Local unions, acting as agents for the International Typographical Union, shall loan labels for use or cause the same to be used in such offices and by such employing printers as fully comply with the rules and regulations of the International Typographical Union and said local unions, and also sign a label contract. The Executive Council of the International Typographical Union shall have the typographical union label withdrawn from all printing establishments employing members of antagonistic organizations.

SEC. 2. The typographical label shall be supplied to local unions by the Secretary-Treasurer of the International Typographical Union in such form as may be deemed expedient, or matrices may be purchased through said Secretary-Treasurer, the cost thereof to be paid by the local union, but the matrices to remain the property of the International Typographical Union and to be surrendered by the local union on order of the International Executive Council.

SEC. 3. The label shall be used only under contracts in either newspaper or commercial shops providing for an hourly rate of at least \$1.00 per hour, and under which the contract requires members to work no more than a five-day forty-hour week.

#### ARTICLE VII. MACHINES

SECTION. 1. None but members of the International Typographical Union shall be permitted to operate typesetting, typecasting or material making machines. The International Typographical Union also claims jurisdiction over all duplicating machines, such as typewriters and varitypers, etc., the product of which is actually used in printing.

SEC. 2. In machine offices under the jurisdiction of the International Typographical Union, no person shall be eligible as a "learner" on machines who is not a member of the International Typographical Union. The time and compensation of "learners" shall be regulated by local unions: *Provided*, Local unions may grant permits to apprentices during the last year of their apprenticeship, during which they may learn the machines, and such apprentices shall be subject to the rules and regulations of such local unions.

SEC. 3. Subordinate unions are prohibited from establishing piece or bonus scales.

SEC. 4. No member of the International Typographical Union shall engage in speed, record, or other contests either by hand composition or on machines. Violation of this law shall be punishable by a fine of not less than \$25, or suspension.

SEC. 5. It is the unalterable policy of the International Typographical Union that only members in good standing shall be employed in installing, operating, and maintaining all mechanical devices which cast, compose, or impose type or slugs; perforate tape for use in composing or producing type or slugs; operated manually or automatically and wherever located.

#### ARTICLE VIII. MACHINE TENDERS

SECTION 1. All machine tenders shall be members of the International Typographical Union, and the local unions shall provide and maintain a scale covering such positions, and they shall at all times be under the control and amenable to all laws and regulations of said local unions. Porters shall only be allowed to melt metal and put metal around machines. They shall not be allowed to start, repair, oil, clean, change or adjust machines, or clear space bands and plungers. All work pertaining to maintenance and care of machines to be performed exclusively by machine tenders who are journeymen or apprentice members of the International Typographical Union.

#### ARTICLE IX. PLATE MATTER AND MATRICES

SECTION 1. The International relegates the use of plates and plate supplements matter to subordinate unions, with power to act.

SEC. 2. The interchanging, exchanging, borrowing, lending, or buying of matter, either in the form of types or matrices, between newspapers, between job offices, or between newspaper and job offices, or vice versa, not owned by the same individual, firm, or corporation, and published in the same establishment, is unlawful, and shall not be allowed, unless such type or matrices are reset as nearly like the original as possible, made up, read and corrected, and a proof submitted to the chairman of the office. Transfer of matter between a newspaper office and a job office, or a job office and a newspaper office, where conducted as separate institutions, and from separate composing rooms, owned by the same individual, firm, or corporation, is not permissible unless such matter is reset as nearly like the original as possible, made up, read and corrected and a proof submitted to the chairman of the office: *Provided*, That where an interchange of matter from an English publication to a foreign language publication, or vice versa, is desired, under the provisions of this section, such exchange shall be regulated by agreement between the employers and local unions interested. The time limit within which borrowed or purchased matter, or matrices, are to be reset shall also be regulated by agreement between the employers and local unions. This section shall not apply to original commercial composition purchased from union commercial trade composition plants or other union composing rooms when such composition is an integral part of production of a particular commercial job.

SEC. 3. Subordinate unions may include in contracts provisions requiring reproduction, or exempting from reproduction, national (general) advertisements, plates, and plate supplement matter, printed supplements type, plates, and matrices other than local advertisements.

#### ARTICLE X. PRIORITY

SECTION 1. Persons considered capable as substitutes by foremen shall be deemed competent to fill regular situations, and the substitute oldest in continuous service shall have prior right in the filling of the first vacancy. This section shall apply to incoming as well as outgoing foremen.

SEC. 2. Subordinate unions shall establish a system for registering and recording priority standing of members in all chapels, which shall be conspicuously posted or kept in a place within the chapel accessible to members at all times. The priority standing of a member shall stand as recorded.

SEC. 3. No member shall hold priority in more than one office nor shall a member retain priority standing or a situation in an office if he performs work over which the International Typographical Union has jurisdiction, either supervisory or mechanical, in another printing office whether or not the member is interested financially or otherwise in said office: *Provided*, That in the event of a strike or lockout involving a substantial number of members, the local union where such strike or lockout exists may adopt a law that will provide that members involved may establish priority rights in another chapel in the same jurisdiction, and in the event of a settlement of said strike or lockout, may relinquish priority so established and be granted their former priority standing in the struck or locked-out plant. *Provided further*, Subordinate unions may establish regulations whereby members may be permitted to accept temporary employment in another office without loss of situation or priority standing, and under such regulations may prohibit a substitute having refused such work from claiming it as overtime.

SEC. 4. Local unions may establish regulations permitting a situation holder, or a substitute having established priority standing, to engage in pursuits other than at the trade for a period not to exceed ninety calendar days in any twelve-month period without loss of situation or priority: *Provided*, Members exercising this privilege shall employ the priority substitute competent to perform the work.

SEC. 5. Any member engaged to serve the International Typographical Union, a subordinate union or to perform work in the interest of the organized labor movement, or any member incapacitated by illness, shall not be deprived of his priority standing while so employed or so incapacitated. A member so engaged shall employ while absent the priority substitute competent to perform the work if one is available, or if not, he shall not suffer loss of situation and/or priority. This does not apply when a competent substitute is available. After thirty days the situation shall be filled by priority sub, and upon reporting for duty full priority rights shall be restored: *Provided*, That when a member is incapacitated by illness a substitute shall be employed in accord with section 6.

SEC. 6. Available priority substitute competent to perform the work must be placed on all situations after the situation holder has been absent from his or her situation for a period of thirty calendar days: *Provided*, Should a substitute with greater priority become available, such substitute shall be placed on said situation.

SEC. 7. In cases where members are admitted as residents of the Union Printers Home or who enlist in or are called for service in the military or naval services of the United States or the Dominion of Canada (or their allies) in time of war or for the duration of any period of national emergency proclaimed by the governments of said countries; those drafted in the military or naval services of the United States or Canada, or those who may actively engage in war work for the American Red Cross, Red Cross Societies of the allies, Knights of Columbus, the Salvation Army, the Young Men's Christian Association, or any recognized organization of a similar character, their situations and/or priority standing shall be protected and upon again reporting for duty the situations and/or priority standing formerly held by these members shall be restored to them. Members of the Organized Reserve of the Army, Navy and Marine Corps, or other such organizations (except the National Guard) shall maintain their priority standing while serving active tours of duty with said organizations whether during time of war or peace: *Provided*, That the situations and/or priority standing of such members shall not be protected for more than 6 months under this section of the law.

SEC. 8. A foreman employed from outside the shop shall accumulate no priority standing during the period he continues as foreman.

#### ARTICLE XI. FIVE-DAY LAW; OVERTIME

SECTION 1. In all offices under union jurisdiction the unit of hours constituting a regular shift shall not exceed eight and no subordinate union shall enter into a contract which provides for a workweek in excess of forty hours.

SEC. 2. No member performing mechanical work as journeyman shall be required, or permitted, to hold a situation composed of more than five days, or five nights, or combination of days and nights totaling more than five, within a financial week.

SEC. 3. Five shifts shall constitute a situation and all time worked in excess of five times the unit of hours constituting a regular shift shall be canceled by employment of a substitute as soon as one becomes available.

SEC. 4. Time worked in excess of the limits provided in the above sections shall accumulate as specified in section 10 of this article, and failure of a member to cancel such excess time when a competent substitute becomes available shall render the member subject to a fine of one day's pay at the scale of the union. Each shift the member fails to employ a competent substitute who is available shall constitute a separate offense.

SEC. 5. Members who do not limit themselves to five shifts within the financial week in accordance with the provisions of section 2 of this article shall be assessed a day's pay for each offense. Where the local union fails to apply the penalty the Executive Council shall levy an assessment of a day's pay against each member for each violation. Where the local union levies the fine it shall be paid into the local treasury. All fines assessed by the Executive Council as penalties for violations of this article shall be forwarded to the International Secretary-Treasurer. Members who fail, or refuse, to pay any sum levied by the Executive Council shall be suspended and lose all rights and benefits of membership.

SEC. 6. No reduction of the five-day workweek may be ordered by a local union, nor shall special assessment for out-of-work relief be levied by such union in excess of 3 per cent of earnings; *Provided*, That all proposals for special assessments must provide a specific date on which collection of such special assessment shall be discontinued.

#### OVERTIME

SEC. 7. Members required to work in excess of the unit of hours established as a regular shift must receive the overtime rate for all such excess time. The overtime rate shall not be less than one and one-half times the regular rate, based upon the hourly wage paid; *Provided*, In case of foremen performing executive or clerical work exclusively and in extreme emergencies, such as fire, flood or disaster, overtime may be waived.

SEC. 8. Not less than time and one-half shall be paid for any shift worked in excess of five within a financial week. When a member is required to work on a regular offday or offnight, not less than the overtime rate shall be paid for such work performed.

SEC. 9. When any situation holder accumulates overtime equal to the unit of hours established for a regular shift he shall engage a competent substitute as soon as one becomes available for the purpose of canceling such overtime; *Provided*, It shall not be mandatory that any member cancel more than three days' accumulated overtime in any one financial week nor shall it be mandatory that any member cancel accumulated overtime on a holiday which falls within the five-day workweek and for which premium pay is provided for by contract. Holidays or time lost through "begging off" shall not cancel overtime. A substitute having a day's overtime to give out is not eligible for employment in the week following as soon as he has worked the number of shifts to make a full week, including the accumulated overtime, if other substitutes are available.

SEC. 10. Subordinate unions shall specify the period, which shall not be less than sixty (60) days, overtime shall be accumulative. It shall also be mandatory that each local union adopt laws requiring posting of overtime in all chapels under its jurisdiction.

SEC. 11. Any member having accumulated overtime to give out who fails or refuses to employ an available competent substitute, or who attempts to evade the overtime law, shall be punished by a fine of not less than one day's pay for each offense. Where the records show violation or evasion the fine may be arbitrarily assessed. It is mandatory that local unions impose and collect the fine for which provision herein is made and with it compensate substitutes who suffer loss of employment through violation of sections 9 and 11 of this article.

SEC. 12. Where members work during a regularly scheduled vacation period and receive pay in addition to vacation pay for such time worked, such time worked shall be considered as overtime at the ratio of day for day and shall be laid off in accordance with the local and International laws governing overtime.

#### ARTICLE XII. SUBLIST AND PHALANXING

SECTION 1. Establishing or maintaining situations composed of less than five shifts in offices which operate five, six, or seven days, thereby creating and controlling extra work constitutes the operation of a sublist and is prohibited.

SEC. 2. Laying off a situation holder and employment of another member as extra to perform work to which the situation holder's priority and competency entitle him is prohibited.

SEC. 3. Violation or evasion by a foreman of either sections 1 or 2 of this article shall be punishable by a fine of \$25, which may be assessed by the chairman of the chapel or the president of the subordinate union. When such fine is levied it must be paid pending appeal to the subordinate union and the Executive Council. Any chairman failing to report the violation of this section shall be fined \$25.

SEC. 4. Sections 1, 2, and 3 shall be posted in all chapels and enforced by all unions under the jurisdiction of the International Typographical Union.

#### ARTICLE XIII. TYPE—STANDARD

SECTION 1. A subordinate union cannot alter or amend the standard of type adopted by the International Typographical Union. The following is to be the alphabetical scale for the measurement of type cast on the point system: 12-point to 9-point, inclusive, 13 ems; 8-point and 7-point, 14 ems; 6-point, 15 ems; 5½-point, 16 ems; 5-point, 17 ems; 4½-point, 18 ems. All fonts exceeding the standard are to the benefit of the compositor, and no deductions or allowances can be made owing to such excess. In considering whether a font of type is up to the standard, the letters to be measured are the lower case letters from a to z, inclusive, and these only—the twenty-six letters of the alphabet; and the letters c, d, e, i, s, m, n, h, o, t, a, and r shall be equal to at least one-half of such measurement. Where type shall be cast upon a larger body than the face (6-point face upon a 7-point body), it shall be measured as the face; or where it shall be cast upon a smaller body than the face (as 10-point face upon a 9-point body) it shall be measured as the body. Type cast in such a manner as practically to produce leaded matter without the use of leads shall be measured as type the next size smaller than the body in which it is cast.

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#### RESOLUTIONS

1. That it is not contrary to the policy of the International Union for our members to refuse to patronize an establishment which has been declared unfair, even though said establishment employs in part union men.

2. That the membership give its best endeavors toward persistent local label agitation. This work by local unions has produced excellent results wherever the members have concentrated their energies and insisted that the label appear upon printed matter.

3. That chairmen of offices under the jurisdiction of subordinate unions shall recognize the current working cards of traveling inspectors and repairmen of typesetting machine companies, insofar as may be necessary to permit of the repair or inspection of machines.

4. That subordinate unions of the International Typographical Union, through their officers, label committees, allied councils, and any other available means, use the forum columns of the newspapers, select speakers to appear before clubs, church groups, school organizations, farm bodies, etc., and use whatever other opportunity presents itself to bring about a better understanding of, and more favorable attitude toward, the I. T. U. and the entire labor movement.

5. That the International Typographical Union recommend to the subordinate unions that wherever possible plots be secured in cemeteries for their locals to the end that the graves of our dead may be distinguished from other graves and that suitable shafts be erected on same.

6. That International Typographical Union declare its opposition to the poll-tax as a restriction on the right of suffrage and call upon its locals and members in the seven poll-tax states to work for the immediate repeal of such poll-tax laws.

7. That the membership of the International Typographical Union is urged to contribute annually on May 12 the sum of \$1.00 to the Home endowment fund; that all contributions be collected through regularly established dues collecting agencies; that all collections be deposited, without commissions of any kind, in the Home endowment fund, and the proper officers be required to include in their reports as at present the amounts added and the total amount of the Home endowment fund.

8. That the International Union endorse the principle and practice of conferences among the officials of local unions whose members work for the same employer.

9. That the International Typographical Union protests and goes on record as being opposed to the vocational departments of our different public school systems competing in the commercial field and seeks the discontinuance of this very unfair trade practice.

10. That the International Typographical Union urge and assist all typographical unions under its jurisdiction in adopting the following law in all the states and provinces:

SECTION 1. All printing for which the state, province, counties, cities, or subdivisions thereof are chargeable, or which is paid for with funds appropriated wholly or in part of by the state, province, counties, or political subdivisions thereof, must be printed within the state, province, counties, or cities, where practicable and done by letter-press process.

SEC. 2. Printing firms shall be required to establish consideration as a responsible bidder on printing for state, province, counties, cities, or political subdivisions as follows:

(a) As a condition to consideration as a responsible bidder, printing concerns must file with the secretary of state or controller and purchasing agent, a sworn statement to the effect that employes in the employ of the concern which is to produce such printing are receiving the prevailing wage rate and are working under conditions prevalent in the locality in which the work is produced.

(b) When a collective bargaining agreement is in effect between an employer and employe, who are represented by a responsible organization which is in no way influenced or controlled by the management, such agreement as to wages and hours shall be considered as conditions prevalent in said locality and shall be the minimum requirements for being adjudged a responsible bidder under the law.

SEC. 3. Any contract for printing with a bidder who is not responsible within the requirements of the law shall be declared null and void.

11. That the International Typographical Union in convention assembled goes on record urging local Allied Printing Trades Councils, in localities where mailers' unions exist, to prohibit the use of the union label on publications and advertising circulars, on which mailers' work is to be performed by other than union mailers.

12. That a permanent committee of five to be composed of all the officers of the Executive Council of the International Typographical Union is hereby authorized to perform the following duties: It shall annually publish in The Journal a list of those members whose records at International headquarters show that they have been members of this organization for a period of not less than forty (40) years; and it shall design a suitable emblem or jewel to indicate that the member has been in continuous good standing with this organization for at least forty (40) years; and it shall keep a supply on hand of these jewels or emblems at all times which they shall sell only to the member's local union at cost, after the member's name has been published in The Journal; and the committee is also empowered to bestow this jewel or emblem on those members of the International Typographical Union that it shall deem justly entitled to such recognition for meritorious services or outstanding achievement to the International Typographical Union.

13. That the members of fifty years' standing be issued an emblem designating such continuous good membership.

14. That the International Typographical Union order that a bronze plaque, of appropriate size and design and bearing the names of all of those who shall have died in the service of their country in this war, be cast as soon as possible after the cessation of hostilities, and be permanently erected and unveiled, with appropriate ceremonies in a place of prominence on the grounds of Typographical Terrace in the city of Indianapolis, Indiana.

15. That no contract shall be approved for negotiation by the International Typographical Union which does not provide for a maximum workweek of five days, the shifts of which shall not exceed seven and one-half hours each; and that the International Typographical Union shall not approve for negotiation any contract that does not contain a provision for a minimum vacation allowance of two weeks with pay.

16. That the International Typographical Union, assembled in 88th session, respectfully urges the Veterans' Administration that where a committee composed of members of a subordinate union of the I. T. U. and employers has an apprentice-training program for the printing industry such program be recognized as the only program for instruction of veteran apprentices in that particular area.

17. That the 88th Convention of the International Typographical Union urge

members of Congress and the Senate of the Government of the United States to amend the Social Security Act, and that the Act be amended, lowering the retirement eligibility age from 65 years to 60 years; setting eligibility age for women at 55 years, and providing disability benefits after ten years of social security tax payments regardless of age.

18. That the International Typographical Union goes on record as favoring amendments to the Federal Social Security Act which would provide old-age and survivors' benefits for employees of religious, educational, and charitable institutions; that the officers of the I. T. U. seek the cooperation of all labor organizations in support of such amendments.

19. That the International Typographical Union delegates to the American Federation of Labor and the Canadian Trades and Labor Congress be instructed to urge those bodies to seek enactment of legislation by the various states and provinces compelling employers whose employes are engaged in a labor dispute to insert such information in any advertisements for new employes.

## BURIAL SERVICE

### FOR DECEASED MEMBERS

#### (Short Form)

*[Supply pronouns of opposite gender where necessary in text]*

One by one they pass away, our brother in a common destiny, our fellow workmen and our friends. Death has claimed for its own the brother whose lifeless form we are about to consign to its last resting place, and we know that we shall no longer enjoy his fraternal fellowship. We who knew him well in our daily walks of life realize that in his departure from among us we are to be deprived of his companionship and feel that something has gone from us that can never be again.

It has been the fraternal custom among members of the Typographical Union, on the death of a member, to accompany the remains to its last resting place, and it is in the capacity of union printers that we are assembled here today, deploing his loss, and to offer up our last tribute of respect to his memory, thereby certifying to his loyalty to the ties that bound him to us and the esteem in which we held him.

In paying this last tribute of respect to our deceased brother we also extend our deepest sympathy to his bereaved family in this, their hour of affliction. Loyal and true as he was to us, so shall we be loyal and true in carrying out the obligations of our organization to those dear ones he has left behind.

Since it has pleased Almighty God in His tender mercy to take our brother from this vale of tears and from this world of sorrow and care to that home everlasting, may we who survive him realize the short time that remains until we shall be called to answer the summons from above; and may the lifeless form in the casket before us, to which we now pay this tribute of respect, prompt us to greater efforts to strengthen the weak and erring and render assistance to our needy members, that our own lives may be bettered thereby and that we may the more strongly cement the ties that bind us.

*[Here a short sketch to be read of the member]*

And so, as our departed brother has completed his useful journey in this world, may we profit by this solemn parting so that, when the trumpet of Gabriel is sounded on resurrection morn, we may receive from the compassionate Judge the welcome invitation to enter the kingdom of heaven, there to meet, never to part. And in the language of the poetic inspiration:

"So live that when thy summons comes to join  
The innumerable caravan that moves  
To that mysterious realm where each shall take  
His chamber in the silent halls of death  
Thou go not like the quarry slave at night,  
Scourged to his dungeon, but, sustained and soothed  
By an unfaltering trust, approach thy grave  
Like one who wraps the drapery of his couch  
Above him and lies down to pleasant dreams."



## PRAYER

Our Father, Who art in heaven, hallowed be Thy name; Thy kingdom come; Thy will be done on earth as it is in heaven; give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us; lead us not into temptation, but deliver us from evil, for Thine is the kingdom, the power and the glory, for ever and ever, Amen.

## (Long Form)

*[The following longer form of burial service is designed for use on occasions when the Typographical Union service is the only one used, and where consequently a longer form is desirable. If preferred, the first part of this form, including the first prayer, can be used as an alternative short form of service.]*

We pause in the midst of our activities to pay tribute to the memory of one of our craft who has entered into the Larger Life. It is altogether fitting that we should pay this homage of respect to this member of our local whose visible fellowship we are no longer privileged to enjoy, but whose memory we reverence and cherish. He was our brother, pledged to the ideals of our organization. He was our comrade, devoted to the principles of unionism and fellowship; his going from us at the time of his highest possibilities of services touches our hearts with grief and stuns us with an awareness of our irreparable loss.

How trivial are the mundane affairs of men compared with the province of God and the ultimate and supreme adventure which each in his turn must eventually make. How insignificant are the victories of which we boast beside the colossal upheavals of nature and the passing of living souls to pioneer in celestial realms. Life is the consummation of the entire creative process, and man, made in the spiritual likeness of God, is the culmination of all ages.

Our minds will not consent to believe that the spiritual individuality is blotted out of existence by the experience of death, and that out in the Great Beyond there is no pathway for our feet, no refreshing stream by which our weary souls may become invigorated. Altars and shrines dot the landscape in every country throughout the world, revealing the universal faith in an unseen Friend and in the survival of the spirit after the dissolution of the body. The archaeologist going back into the far-distant past reports that his researches have shown this universal faith in immortality to have existed even among our most primitive ancestors; and the sociologist tells us that nowhere on the face of the earth today is there a race of people who do not look up in reverence to a power or powers superior to humanity in the hope of eternal life.

Our immediate thought, our aim is for the welfare of humanity, for the upbuilding of our craft organization and what it stands for. May not our efforts be likened to that of the bridge builder so beautifully described in this description of his life work:

"An old man going a lone highway  
Came in the evening, cold and gray,  
To a chasm vast, that was deep and wide,  
Through which there flowed a sullen tide.

"The old man crossed in the twilight dim,  
The sullen stream had no fears for him.  
But he stopped when safe on the other side  
And built a bridge to span the tide.

"'You are wasting your strength in building here,  
'Good friend,' said the fellow pilgrim near.  
'Your journey will end with the passing day,  
You never again will pass this way.  
You have crossed the chasm, deep and wide,  
Why build a bridge at eventide?'"

"'Good friend, in the path I have come,' he said,  
'There followeth after me today  
A youth whose feet must pass this way.  
This chasm which has been as naught to me  
To that fair-haired youth may a pitfall be.  
He, too, must pass in the twilight dim,  
Good friend, I am building that bridge for him.'"

The human race seems to have an intuition that a richer and fuller life lies beyond the tomb. In a moral universe, in a universe where spiritual values are eternal, the injustice of things here in this life demands an opportunity for the realization of justice in a life beyond the grave. Sickness, suffering, and sorrow occupy no inconsiderable portion of our experience. While in the very prime of life, when our powers are at their height, affliction steals upon us like the thief in the night and reduces us to impotence or removes us entirely from our earthly fellowships. The immortal soul longs to be delivered from the power of death and to realize a more perfect justice than our mundane existence permits.

Eternal God, Thou has been our dwelling place in all generations. Before the mountains were brought forth, or ever Thou hast formed the earth and the world, even from everlasting to everlasting. Thou art God. A thousand years in Thy sight are but as yesterday when it is past, and as a watch in the night. We give Thee grateful thanks for Thy many providences; their name is legion. We give Thee earnest thanks for the life of our associate who sojourned with us for a while but now has joined the endless throng of pilgrims in that land where pain and suffering, grief and woe are unknown. His cheerful obedience and his unselfish devotion to the work which constituted his calling in life challenge us wholeheartedly to give of our strength and our energies to the tasks before us. In this character, in his personality we see intimations of immortality and we rejoice that it was our privilege to have known him and to have had fellowship with him. Grant that Thy fatherly benedictions may rest upon his loved ones who mourn and whose hearts are filled with sadness. Comfort them with tokens of eternal life and give them the assurance that there is life after death. We ask this, committing ourselves to Thy gracious care.

"As the hart panteth after the water brooks, so panteth my soul after Thee, O God." That is the universal cry of man. With Tennyson the whole human family sings in rhapsody:

"Thou wilt not leave us in the dust;  
Thou madest man, he knows not why;  
He thinks he was not made to die;  
And Thou hast made him: Thou art just."

It was in this belief that our brother lived and closed his earthly life; and it is in this faith that we bid him farewell until we enter upon the ultimate and supreme adventure and fellowship with him again in a glorious immortality.

I cannot think of them as dead  
Who walk with me no more  
Along the path of life I tread;  
They have but gone before.  
The Father's house is mansioned fair  
Beyond my vision dim;  
All souls are His, and here or there  
Are living unto Him.  
And still their silent ministry  
Within my heart hath place,  
As when on earth they walked with me  
And met me face to face.  
Their lives are made forever mine;  
What they to me have been,  
Hath left henceforth its seal and sign  
Engraven deep within.  
Mine are they by an ownership  
Nor time nor death can free;  
For God hath given to Love to keep  
Its own eternally.

In paying this last tribute of respect to our deceased brother, we also extend our deepest sympathy to his bereaved family in this, their hour of affliction. Loyal and true as he was to us, so shall we be loyal and true in carrying out the obligations of our organization to those dear ones he has left behind.

#### PRAYER

Our Father, Who art in heaven, hallowed be Thy name; Thy kingdom come; Thy will be done on earth as it is in heaven; give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us; lead

us not into temptation, but deliver us from evil, for Thine is the kingdom, the power and the glory, for ever and ever. Amen.

[Where burial services are in charge of and are performed by officers of the Typographical Union the following commitment is to be used:]

#### COMMITMENT AT THE GRAVE

My friends, we are assembled here to perform the last act of which any human being can have need. A member of our organization has passed in spirit to the Great Beyond. In vain we call upon him. He has passed into that great light which lies beyond the valley of the shadow of death. For him this earthly life is ended and the spirit has returned to God, who gave it. We, therefore, with all reverence and respect, commit his body to the grave, ashes to ashes, dust to dust.

Let us pray.

Grant rest and peace, O Lord, for the soul of our deceased friend, whom now we consign to Thy care. Weary of the trials and tribulations of the earthly life, he has passed on into Thy keeping. In mercy receive him and comfort him. This we ask for Thy name's sake. Amen.

### CONVENTION LAWS

#### ARTICLE I. CONVENTION

SECTION 1. The Convention shall assemble at 9 o'clock a. m. on the first day of meeting, and afterward shall meet and adjourn at such times as may be fixed by a majority of the members present.

SEC. 2. After the first day, the convention shall remain in session not less than six hours per day until such time as the business shall have been completed.

SEC. 3. The selection of place of meeting shall be held on the fourth day of the session at 11 a. m.; the nomination shall be made on the previous day; the vote shall be by printed ballot, the said ballots to contain the names of all the cities or towns put in nomination, the ballots to be distributed thirty minutes before election; the town or city voted for shall have a cross placed opposite its name; at 11 o'clock on the day of election the roll shall be called, and each delegate shall deposit his vote in a receptacle provided for that purpose; if a result is not reached on the first ballot, the town or city receiving the least number of votes shall be dropped, and balloting shall continue until a selection is made. All expenses of such election shall be borne by the International Typographical Union.

SEC. 4. No person other than duly elected delegates and officers shall be accorded the privilege of the floor during the sessions of the International Union, except by unanimous consent of the convention; but, when requested, a representative of the American Newspaper Publishers' Association, the United Typothetae of America, the Printers' League of America, or the Printers' National Association, shall be heard on important changes in the laws affecting their interests.

SEC. 5. No printed matter shall be allowed to be distributed in any convention of this union unless it bears the union label.

SEC. 6. A majority of the members in attendance at any session of the International Typographical Union shall be necessary to form a quorum for the transaction of business.

SEC. 7. The following obligation shall be administered by the President to the several elected and appointed officers before they shall enter upon their respective duties:

*You solemnly pledge your word and honor, in the presence of this union, that you will, to the best of your ability, discharge the duties incumbent on you as ----- of the International Typographical Union during your term of office.*

#### COMMITTEES

SEC. 8. As soon as practicable after the election of delegates to the International Typographical Union by subordinate unions, and at least thirty days before the meeting of the convention, the President or President-elect who will preside at the convention shall appoint a committee on laws, to be composed of seven delegates-elect. To this committee the Executive Council shall submit such in-

formation, data, and propositions as shall be deemed necessary to amend and improve the Constitution, By-Laws, and General Laws. It shall be competent for any subordinate union, or delegate-elect, to submit such information, data, or proposition.

SEC. 9. The committee shall meet at the city where the International Union is to convene at least five days before the beginning of the session, and shall proceed assiduously to consider all such information, data, and propositions. It shall submit a printed report in full of all propositions favorably acted upon and the full text of all propositions adversely acted upon. To this committee all amendments submitted during the session shall be referred without debate. It shall have leave to sit during the session, and shall have the right to report at any time to the convention.

SEC. 10. The credentials of the above committee shall be passed upon by the Executive Council.

SEC. 11. The President shall immediately after the roll call on the first day of the convention, appoint the following standing committees:

(a) *A Committee on Returns and Finances.*—To which shall be referred for review the report of the Secretary-Treasurer. This committee shall make an examination of the financial status of the International Union and shall inspect and report upon all checks, drafts, and other assets of the organization in the hands of the Secretary-Treasurer, as shown by his report. To this committee shall be referred all propositions involving an expenditure of money that are presented during the session of the convention.

(b) *A Committee on the Union Printers Home.*—To whom shall be referred all business relating to the Home.

(c) *A Committee on Subordinate Unions.*—To whom shall be referred all petitions, memorial, and communications from said unions, and such other matters as this union may direct.

(d) *A Committee on Miscellaneous Business.*—To whom shall be referred all business not otherwise provided for.

(e) *A Committee on Appeals.*—Provided no objections are entered. If objections be raised, the convention shall then vote on the question, "Shall the President appoint a committee on appeals to be composed of seven members of the body?" A majority vote shall decide the question. If the decision be in the affirmative the President shall appoint the committee. In event the action taken is in the negative, the convention shall nominate and elect the committee. To this committee shall be referred all appeals from decisions of the Executive Council that are properly submitted, as is provided in the laws of this organization. The committee shall carefully examine the evidence brought before it, and report a resolution sustaining or dismissing the appeal.

SEC. 12. The above-named committees shall consist of such number of delegates, not less than seven, as to the President may appear advisable, and the first-named member of each committee shall be the chairman.

SEC. 13. Special committees shall be appointed only when it becomes necessary to relieve standing committees, or advisable when proposed legislation requires more time for examination and consideration than the standing committee can devote thereto. Each special committee shall consist of such number of delegates, not less than seven, as to the President may appear advisable, and no delegate shall be appointed on such committee unless present at the meeting at which the appointment is made.

SEC. 14. Every officer of the International Union shall put in draft form all proposed legislation that may be recommended in his address or report, and lay such draft before the proper committees.

SEC. 15. Every committee to whom is referred any resolution, draft, or amendment of a law, or any amendment or alteration of the Constitution, By-Laws, or General Laws shall report back the full text of the same, with such amendments thereto, or substitute therefor, as said committee may deem needful for perfecting such proposed legislation.

SEC. 16. Every committee to whom is referred, with or without instruction, any communication, report or address or parts thereof, containing recommendations, suggestions, or requests for or of legislation, shall draft in proper form the subject-matter to be proposed, as made known in said address, report, or communication, and report the same to the union.

SEC. 17. A majority of a committee shall constitute a quorum for the transaction of business.

SEC. 18. All reports of committees shall be presented in writing and signed by the members offering the same.

Sec. 19. Committees shall have authority to indicate what argument or data submitted shall be printed in the daily proceedings or minutes.

Sec. 20. The International Union, in convention assembled, calls to the attention of the executive the importance of giving to the smaller unions a fair and equitable apportionment of the appointment of committees.

## ARTICLE II. STANDING RULES

### ORDER OF BUSINESS

1. Roll Call and Reading of the Minutes.
2. Reports of Standing Committees.
3. Reports of Select Committees.
4. Petitions, Memorials, Correspondence, etc.
5. Resolutions, Motions, Notices.
6. Unfinished Business.

### THE PRESIDING OFFICER

1. The presiding officer shall take the chair at the time appointed for the union to meet, and immediately call the members to order; and, at the instance of ten members, may order the attendance of absent members who are in the city where and at the time the meetings are held.

2. The presiding officer is empowered to and shall preserve order and decorum; and if any member transgresses the rules, the presiding officer shall, or any member may, call him to order, in which case the member called to order shall immediately resume his seat until the point of order has been decided by the presiding officer, or, if appealed, by the union.

3. The presiding officer shall have the right to decide all questions of order, subject to an appeal to the union.

4. The presiding officer shall appoint all committees, unless otherwise ordered by the union.

### THE MEMBERS

5. When a member is to make a motion or to speak to the question, he shall rise in his seat and respectfully address the presiding officer; when recognized, he shall give his name and union, and shall confine himself to the question under consideration.

6. No member shall speak more than twice on any question, nor more than ten minutes at any one time, without consent of the union.

7. Any member may call for a division of the question when the same will admit thereof.

8. Every member present shall vote on a question when put, unless the union, for special reasons assigned, shall excuse him.

9. No member shall leave the room during the sessions of the union without the permission of the presiding officer.

### MOTIONS

10. When a motion is made and seconded it shall be deemed to be in possession of the union and shall be stated by the presiding officer; or, being in writing, shall be delivered to the Secretary and read previous to debate.

11. After a motion is stated by the presiding officer, or read, it may be withdrawn by the mover, at any time previous to an amendment or final decision, by consent of the union.

12. When a question is under debate, no motion shall be received but to adjourn; to lay on the table; for the previous question; to postpone to a certain day; to commit, or to amend—which several motions shall have precedence in the order in which they stand arranged. The motion for adjournment shall always be in order; that the motion to lay on the table shall be decided without debate.

13. A motion for the "order of the day" shall take precedence of all other business, except a motion to adjourn or a question of privilege.

14. When a motion or question has once been put and carried, it shall be in order for any member who voted in the majority to move for a reconsideration thereof; but a motion to reconsider, having been put and lost, shall not be renewed.

15. No motion to amend the minutes, by striking out words or sentences, shall be admissible, unless they contain some error of fact or grammar.

16. All motions and resolutions, unless merely affecting the order of business, shall be submitted in writing.

17. A motion to suspend the rules must receive the concurrence of two-thirds of the members present, and shall be decided without debate.

18. All motions, resolutions, recommendations, or decisions of the executive officers that are sustained, intended to be mandatory, and amendments to or alterations of the Constitution, By-Laws, or General Laws, must be drafted in proper form by party or committee submitting them, stating article or section to be amended.

#### COMMITTEE AS A WHOLE

19. On going into the committee of the whole the presiding officer shall name some member to act as chairman of the committee, who shall occupy the chair and conduct the business while in committee.

20. When the committee is ready to report the chairman shall take the floor (the presiding officer resuming the chair) and make known in proper form the action or result arrived at by the committee, and the same shall be entered upon the minutes of the union.

#### THE QUESTION AND VOTE

21. All questions, unless otherwise provided for, shall be put in or near this form: "As many as are in favor of (as the case may be) say Aye; those opposed, No," and in doubtful cases the President may direct, or any member call for, a division.

22. A motion for the previous question shall not be entertained unless seconded by twenty-five members of the union and shall be decided without debate.

23. When so made the question shall be put in these words: "Shall the main question be now put?" and if decided in the affirmative, shall preclude all further amendment and debate of the question. When there shall be pending amendment, the question shall first be taken upon the amendments in their order, and then on the main question.

24. In filling blanks the largest sum and the longest time shall be put first.

25. The ayes and noes shall be taken and recorded upon any question before the union upon the call of twenty-five members, but such call shall not preclude amendments before the main question is put.

26. While the Secretary is calling the ayes and noes the members shall vote inside the bar; and it shall not be in order for any member to explain his vote during the call unless unanimous consent of the union be given.

27. All questions, unless otherwise provided for, shall be decided by a majority of the votes cast.

#### MISCELLANEOUS

28. All resolutions, petitions, memorials, etc., shall be referred to their appropriate committees without debate except in cases where there is no opposition to their immediate consideration.

29. To impugn the motives of officers, members or committees, or to use reviling or degrading language toward them or the union, shall be considered a breach of order, and punishable by such discipline as the union may see fit to impose.

30. At each annual convention the Secretary-Treasurer shall read to the convention a list of former delegates who have died while in good standing in the union whose names have not previously been added to the list of deceased ex-delegates and of whose demise he has been notified by local unions or by delegates to the convention prior to August 1. No objection being made, the names of deceased ex-delegates so read shall be added to the list of deceased ex-delegates and the convention shall arise and remain standing for one minute as a tribute of respect to its former members.

31. In the absence of a standing rule, reference shall be had to "Robert's Rules of Order" as the guide of the union.

#### ARTICLE III. ALTERATION OF CONVENTION LAWS

SECTION 1. These convention laws may be altered or amended by a two-thirds vote of the members present at any session of the annual convention, and as amended may, if so directed, become effective immediately.

## THE UNION PRINTERS HOME

## CHARTER

KNOW ALL MEN BY THESE PRESENTS: That we, August Donath, of the city of Washington, in the District of Columbia; John D. Vaughan, of the city of Denver, in the state of Colorado; William S. McClevey, of the city of Indianapolis, in the state of Indiana; James J. Dailey, of the city of Philadelphia, in the state of Pennsylvania; Edward T. Plank, of the city of San Francisco, in the state of California; Columbus Hall, of the city of Washington, in the District of Columbia; Frank S. Pelton, of the city of Chicago, in the state of Illinois; Amos J. Cummings, of the city of New York, in the state of New York; William Amidson, of the city of Nashville, in the State of Tennessee; William H. Parr, of the city of Toronto, in the Dominion of Canada; Will Lambert, of the city of Houston, in the state of Texas; and James G. Woodward and George W. Morgan, both of the city of Atlanta, in the state of Georgia, being all and the survivors of all the members and original incorporators of The Union Printers Home, a corporation organized heretofore, to wit: on the twenty-fourth day of September, A. D. 1890, under and in accordance with the laws of the state of Colorado, providing for the organization of corporations for nonprofitable purposes, do hereby make, execute, and acknowledge in this certificate of writing, all pursuant of the recommendation of the Board of Trustees of said corporation by resolution expressed, our intention so to alter and amend the articles of incorporation of said The Union Printers Home, to the end that its objects shall be more fully defined and its purposes more economically and prudentially executed and administered as that:

*First*—The corporate name and style of the corporation shall be The Union Printers Home.

*Second*—The objects and purposes for which said corporation is formed are to provide and maintain a home for afflicted and aged and infirm union printers, and to procure and furnish such means, care and attention as may be required for the comfort and treatment of persons domiciled at said Union Printers Home, reserving to the Board of Trustees thereof the management and control of said Union Printers Home and the power to exclude therefrom persons suffering from such diseases as said Board of Trustees may deem it inexpedient to admit, contemplating the suppression of vice, and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers to provide for the support, care and maintenance of families of persons then or therefore domiciled at said Home; to receive devises and bequests and to accept and execute trusts not inconsistent with its objects and purposes.

*Third*—The membership of said corporation shall at no time exceed seven. No person shall be eligible to membership therein except members in good standing of the International Typographical Union. The eligibility of candidates for membership in this corporation shall be determined by the members thereof at their annual meetings, or at any other meeting called for that purpose: *Provided, however,* That no candidate shall be considered except he shall have been recommended by the International Typographical Union, and in considering such candidate priority shall be given in the inverse order of the recommendations. Existing vacancies in the membership, whether caused by death, resignation or otherwise, shall be filled at the meeting of members first succeeding the occurrence of such vacancy.

*Fourth*—The prudential affairs of said corporation shall be managed and controlled by a Board of Trustees having seven members. The Board of Trustees may make by-laws and from time to time may alter, amend or repeal any by-laws. Standing or special committees may be appointed as provided by the by-laws, and such committees shall have and may exercise such powers as shall be conferred or authorized by the Board or by the by-laws.

*Fifth*—Such of the original incorporators of said corporation as may not be herein named as succeeding members shall be deemed to have resigned, and it is now hereby agreed and declared that such succeeding members shall be and are: August Donath, James J. Dailey, Frank S. Pelton, Edward T. Plank, W. S. McClevey, Columbus Hall, James G. Woodward.

*Sixth*—The names of the members of said Board of Trustees who have been selected to act as such during the first year of the existence of said corporation under these amended articles of incorporation are: August Donath, James J.

Dailey, Edward T. Plank, Frank S. Pelton, William S. McClevey, Columbus Hall, Clevey, Columbus Hall, James G. Woodward.

IN TESTIMONY WHEREOF, We have hereunto set our hands and seals this 19th day of April, A. D. 1892.

Signed, sealed and delivered in presence of:

AUGUST DONATH.	[SEAL]
JOHN D. VAUGHAN.	[SEAL]
WILLIAM S. MCCLEVEY.	[SEAL]
JAMES J. DAILEY.	[SEAL]
EDWARD T. PLANK.	[SEAL]
COLUMBUS HALL.	[SEAL]
FRANK S. PELTON.	[SEAL]
AMOS J. CUMMINGS.	[SEAL]
WILLIAM AIMISON.	[SEAL]
W. H. PARR.	[SEAL]
WILL LAMBERT.	[SEAL]
JAMES C. WOODWARD.	[SEAL]
GEORGE W. MORGAN.	[SEAL]

## CONSTITUTION

### ARTICLE I

The name of this corporation is THE UNION PRINTERS HOME.

### ARTICLE II

This corporation is formed to provide and maintain a home for invalid and aged and infirm members in good standing of the International Typographical Union of North America, a voluntary association (unincorporated) whose principal office is located at the city of Indianapolis, in the state of Indiana, and to procure and furnish such means, care, and attention as may be required for the comfort and treatment of persons domiciled at said Union Printers Home, reserving to the Board of Trustees thereof the power to exclude therefrom persons suffering from such diseases as such Board of Trustees may deem it inexpedient to admit, contemplating the suppression of vice and immorality, the advancement of skill, order, and health, and the promotion of industry and happiness among and in the craft of printers.

### ARTICLE III

The domicile of this corporation shall be at the Home by it maintained at the city of Colorado Springs, in the state of Colorado, but its principal executive office shall be at the city of Indianapolis, in the state of Indiana.

### ARTICLE IV

This corporation shall have a perpetual existence.

### ARTICLE V

The membership of said corporation shall at no time exceed seven. No person shall be eligible either to election to membership or to the retention of membership therein except members in good standing of said International Typographical Union. The eligibility of candidates for membership in this corporation shall be determined by the members thereof at their annual meetings or at any other meeting called for that purpose: *Provided, however,* That no candidate shall be considered except he shall have been recommended by said International Typographical Union, and in considering such candidates priority in filling vacancies shall be given to the candidate receiving the highest number of votes in the referendum election for nominees of the International Typographical Union for the office of trustee of the Union Printers Home. *Provided further,* Members who are reelected shall have priority to succeed themselves over other nominees. Existing vacancies in the membership, whether caused by death, resignation, or otherwise, shall be filled at the meeting of members first succeeding the occurrence of such vacancy. Any member of this corporation may be expelled for ineligibility, or for the commission of an indictable offense, or for violation or willful disregard of his duties of membership. Such expulsion may be effected



by a two-thirds vote of any regular meeting or at any special meeting called for that purpose, at which a quorum is present in person or by proxy.

## ARTICLE VI

This corporation may, by its proper officers, accept property, real, personal, or mixed, in trust, and pursuant of such acceptance may act as trustee; *Provided*, however, That no trust shall be accepted nor shall any act as trustee be done, inconsistent with the objects and purposes for which this corporation was created, or which would divert said corporation from the proper administration of its affairs.

## ARTICLE VII

The powers and duties of officers, the manner of creating or filling vacancies in the membership or in any office or on any board or committee, the time and place of meetings and the method of procedure thereat, and all other matters pertinent to the management and control of the affairs of said corporation not herein provided for shall be prescribed by the bylaws.

## ARTICLE VIII

No alterations or amendments shall be made in this constitution except at a regular meeting of the members or at a special meeting called for that purpose, and after one month's notice in writing has been given to each member of the substance of the proposed change. No change shall be made except by a two-thirds vote of any competent meeting, at which a quorum is present in person or by proxy.

## BYLAWS

## ARTICLE I. MEMBERSHIP

SECTION 1. It shall be the duty of each member of this corporation to preserve his good standing as a member of the International Typographical Union of North America, a voluntary association (unincorporated), whose principal office is located at the city of Indianapolis, in the state of Indiana, to comply with its orders and regulations, and to discharge faithfully his duties and obligations thereto, for as much as this corporation is sustained by the members of that union, and for as much as the objects and purposes of the two bodies are similar to this, to wit: That each contemplate the suppression of vice and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers.

SEC. 2. Any member of this corporation who shall have ceased to be a member in good standing of said International Typographical Union, or who shall have otherwise become liable to expulsion from this corporation, shall forthwith, upon the occurrence of such delinquency, be notified in writing of the fact by the Secretary of the corporation, or if he be disqualified by interest or refuse to act, then by any member of the Board of Trustees. Such notice shall call for the resignation of such delinquent member. If the member so notified be not within thirty days thereafter heard from, he shall be deemed to have resigned, and the proper officer of the corporation shall thereupon enter on record in the books of the corporation the fact of such resignation, and shall forthwith proceed as hereinafter provided for the filling of vacancies. But if such delinquent member upon being so notified shall answer that the charges against him are not true or that he refuses to resign, then he may be expelled from membership as hereinafter provided.

SEC. 3. Expulsion of a member shall be by a two-thirds vote of any regular meeting, or any special meeting called for that purpose, at which a quorum of members is present in person or by proxy. Any member who believes that any other member has by misconduct become liable to expulsion shall, as a privileged communication, report in writing his reasons for such belief to the Secretary, or if the Secretary be the person who is so delinquent, then to the several members. If the Secretary, or otherwise a majority of the members, deem the reason so stated sufficient to warrant an investigation, the person so accused shall be notified of the substance of the charge made, and shall be requested to resign, or, upon refusal, to be prepared to make his defense against the charges at a time and place to be in said notice named: *Provided, however*, That thirty days' time be

given between the filing of charges and the investigation thereof. At such meeting the charges made and the answer of the accused shall be fully investigated. Upon the conclusion of such investigation a vote shall be taken on the question, "Have the charges made been sustained?" If the requisite vote be cast in the affirmative, the accused shall thereby be deemed expelled. The proceedings of meetings as to the expulsion of members shall be strictly private and all communications made thereat shall be privileged.

SEC. 4. Each person upon his election to membership in this corporation, and as a condition precedent to his competency to enter upon the discharge of his duties as such, shall appear before some person qualified by law to administer oaths, and make and subscribe to the following obligation, to wit:

I, \_\_\_\_\_ of the city of \_\_\_\_\_ in the state of \_\_\_\_\_, do solemnly swear that I will support the Articles of Incorporation, the Constitution, and By-Laws and all orders, rules, and regulations of The Union Printers Home; that I will faithfully discharge the duties of any office or position to which I may be called as a member of said corporation; that at the expiration of my term of membership I will render to said corporation my resignation as such member and will surrender to said corporation at the same time all property, rights, and things to it belonging and in my possession or under my control that at any time during my incumbency in any office or position in said corporation I will, when called upon so to do by any authorized officer or agent, make a detailed report of the condition of any or all matters in my keeping or under my control, and that I will furnish every facility within my power for the verification of such report by the inspection of books and papers or otherwise as may be required.

Any breach of this obligation shall be deemed unlawful and for any damage sustained thereby on the part of said corporation or any person interested as cestui que trust in any property by it held, I agree that judgment may be taken against me in any court of competent jurisdiction, collectible with attorney's fees and without the benefit of exemption and without relief of valuation or appraisal laws.

Before me \_\_\_\_\_, in and for the city of \_\_\_\_\_, in the county of \_\_\_\_\_, and state of \_\_\_\_\_, personally came the above-named \_\_\_\_\_ and voluntarily made and subscribed to the foregoing obligation.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19\_\_\_\_.

(Official character.) \_\_\_\_\_

Such obligation, when executed, shall be forthwith forwarded to the Secretary of the corporation, who shall, upon receipt thereof, issue to such member a certificate of membership, which shall entitle the person therein named to assume the duties of membership in said corporation.

## ARTICLE II. MEETINGS

SECTION 1. The fiscal year of the corporation shall end annually on the first Saturday after the first Monday in November, and on that day the annual meeting of the members shall be held at such hour as shall be named in the notice thereof. Such meetings shall be held for the purpose of receiving and acting on the annual reports of officers, of electing new members and officers and of transacting such other business as may properly come before the meeting.

SEC. 2. Special meetings of the members may be called at any time by the President, or by any three members, on thirty days' notice in writing being given to each member. A copy of such notice, mailed to each member at his place of residence, as shown by the Secretary's books, shall be deemed sufficient notice. The notice of call of each meeting, except regular meetings, shall state the substance of such business as may come before said meeting, and no business shall be transacted at such special meeting except it shall have been so stated.

SEC. 3. All votes shall be by ballot.

SEC. 4. At meetings of the members the order of business shall be as follows:

*First*—Roll call of (1) officers and (2) members.

*Second*—Reading and correcting minutes of last meeting.

*Third*—Communications.

*Fourth*—Report of officers.

*Fifth*—Reports of standing committees.

*Sixth*—Reports of special committees.

*Seventh*—Unfinished business.

*Eighth*—New business.

*Ninth*—Election of (1) members and (2) officers.

*Tenth*—Installation of (1) members and (2) officers.

*Eleventh*—Adjournment.

Sec. 5. The Board of Trustees of The Union Printers Home shall meet annually at The Union Printers Home in Colorado Springs, Colorado, on such date as they may select, all expenses of said meeting to be defrayed from The Union Printers Home Fund. The mode of procedure herein prescribed as to meetings of members of the corporation shall govern in the meetings of the Board of Trustees and all committees insofar as it may be applicable.

#### ARTICLE III. OFFICERS

SECTION 1. There shall be elected by the members of the corporation a Board of Trustees of seven members, who shall manage the prudential affairs of the corporation, and be the supreme authority in all matters of administration. At the first election three of said Trustees shall be elected for the term of one year, two for two years and two for three years. As said terms respectively expire, successors shall be elected for terms of three years, except in cases of filing an unexpired term; then the election shall be for such time as the original incumbent would have served. Said board shall organize by electing annually a President, a Vice-President, and a Secretary-Treasurer, who shall hold their respective offices until their successors are elected and qualified.

##### *President.*

Sec. 1. It shall be the duty of the President to preside at the meetings of members and of the Board of Trustees and to preserve order therein; to enforce compliance with the Articles of Incorporation, the Constitution and By-Laws, and all orders and regulations of the corporation; to call special meetings of the corporation when requested in writing so to do by two-thirds of the members; and to see that all property of the corporation or in its control is properly cared for. He shall see that all moneys belonging to the corporation are properly deposited in responsible banks, in the name of the corporation, as such, and money shall be drawn from such fund only by check signed by the President and Secretary-Treasurer of the corporation.

He shall appoint all committees and shall be *ex officio* a member thereof. He may suspend any officers or agent of the corporation, pending action of the Board of Trustees or of the members, as the case may be, if, in his judgment, the welfare of the corporation requires such action. He shall annually appoint the following standing committees of the Board of Trustees, to consist of three members each: Finance, Admission and Rules, and one member of the Executive Committee, who, with the President and Secretary-Treasurer, shall constitute that committee. He shall do all such other acts as are ordinarily incumbent upon the chief executive officer of a corporation.

##### *Vice-President*

Sec. 3. In the event of the death or resignation of the President, or his inability or failure to perform his duties, the Vice-President shall perform all the duties and have all the powers of the President.

##### *Secretary-Treasurer*

Sec. 4. The Secretary-Treasurer shall keep the records of the corporation. He shall record in books kept for that purpose the names and post-office addresses of the members of the corporation, the dates on which they were respectively elected, the names of officers and committees and the proceedings of meetings of the members and the Board. The Secretary-Treasurer shall have the custody of all moneys belonging to the corporation and of all certificates of loan or other evidences of investments, which he shall exhibit once a year, or oftener, if required by the President, or by the Board of Trustees; he shall, under the direction of the President, deposit all funds in some responsible bank or banks, in the name of the corporation, and shall procure interest thereon when possible and cover the same into the treasury of the corporation; he shall disburse moneys only by check signed by the President and the Secretary-Treasurer; he shall keep a full and correct account of all moneys received and of all moneys.

disbursed; he shall pay only such bills as are approved by the Finance Committee or the President; he shall give a bond to the corporation from a solvent guarantee company in the sum of \$25,000, and shall, as to each separate fund or property held in trust by the corporation, give a bond to the Board of Trustees, as trustees, for such fund or property, in such sum as the instrument creating such trust shall direct. All bonds shall be conditioned for the faithful performance of his duties. The Secretary-Treasurer shall also furnish the Board with a monthly statement of receipts and disbursements, and shall also publish the same each month in *The Typographical Journal*. He shall perform such other duties as are ordinarily incumbent upon the Secretary-Treasurer of a corporation or board of trustees.

#### *Executive Committee*

SEC. 5. The Executive Committee shall have power to do any acts relating to the affairs of the corporation which the Board of Trustees could lawfully do, and which the Board of Trustees may entrust to said committee. It may meet from time to time, and may adjourn from place to place as it thinks proper for carrying into effect the purposes of its appointment.

#### *Finance Committee*

SEC. 6. The Finance Committee shall audit all accounts and claims and shall in writing report upon the feasibility of all contemplated expenditures of an extraordinary character.

#### *Admissions Committee*

SEC. 7. The Admissions Committee shall, before any action is taken on any application for membership in the corporation or for admission to any institution or place under the control of this corporation, examine the qualifications of the applicant, and if such person be ineligible in the opinion of the committee, the application shall be rejected, but the right of appeal shall lie to the Board of Trustees from any decision of the committee.

#### *Committee on Rules*

SEC. 8. The Committee on Rules shall have the powers and perform the duties ordinarily incumbent upon judiciary committees. It shall act coordinately with the Solicitor of the corporation in all matters referred to it by the President or Board of Trustees, or any other committee thereof. It shall prescribe the rules for the government of servants of the corporation and for the conduct and behavior of persons admitted to any institution or place under the control of the corporation.

### ARTICLE IV. SERVANTS OF THE CORPORATION

SECTION 1. The President shall, with the concurrence of the Board of Trustees, appoint a Superintendent and Matron for each institution under the management and control of the corporation, who shall reside upon the premises and who shall not be discharged except for cause and with the concurrence of the Board of Trustees. The Superintendent shall purchase all supplies needed by the institution and shall keep an account thereof; he shall make a detailed report each month to the Finance Committee. The Matron shall have charge of the household duties of the Home; she shall procure all needed supplies from the Superintendent, keeping a correct account thereof and reporting monthly to the Finance Committee. The compensation of the Superintendent and Matron shall be fixed by the Board of Trustees.

SEC. 2. The President may annually appoint a Solicitor, who shall attend to the legal business of the corporation.

### ARTICLE V. ADMISSION OF RESIDENTS

SECTION 1. Every application for admission into any institution under the management and control of this corporation shall be made in writing, setting forth the name, age and residence of the applicant, and such other information as the Committee on Admission may require, contemplating the competency of such person to share in the benefits and resources of the fund or trust to which his application is directed. All nominations shall be received by the Secretary and recorded in the order of presentation in a book kept for that purpose, and shall be referred upon receipt to the Committee on Admission, upon whose favorable report the application shall be accepted and the applicant admitted.

SEC. 2. Each candidate for admission shall make application through the subordinate union of said International Typographical Union of which the applicant may be a member in good standing. Each applicant shall be endorsed by the president and secretary of the subordinate union to which the candidate belongs, and the seal of the union shall be attached thereto.

#### ARTICLE VI. REORGANIZATION OF THE CORPORATION

Whereas, There has of recent date been a reorganization of this corporation, made pursuant of a resolution adopted by the Board of Trustees of The Union Printers Home, as organized on the 24th day of September, A. D. 1890, which resolution was as follows, to wit :

Whereas, It has been reported to this corporation by its Solicitor that a reorganization is requisite in order to accomplish more readily and economically the purposes for which the corporation was formed; and,

Whereas, It is desirable that this corporation be competent to execute trust consistent with its own purposes; therefore be it

Resolved, That steps be taken forthwith to reorganize this corporation, to the ends following, to wit :

First—That the number of members of the corporation be reduced from thirteen to seven.

Second—That a Board of Trustees be created with power to manage and control the prudential affairs of the corporation, and with authority to delegate duties to competent committees to the end that the administration of the affairs of the corporation may be attended with less expense.

Third—That the corporation be made competent to accept and execute trusts consistent with its own purposes.

Fourth—That such other functions and duties may be defined and assumed as are consistent with the general design of the corporation, and as were contemplated in its original organization, but defectively provided for; and

Whereas, At the time of said reorganization and as a means of effecting the same, the following named persons resigned their membership therein and released and surrendered all their rights, privileges, benefits and advantages thereunto appertaining, to wit : John D. Vaughan, Amos J. Cummings, George W. Morgau, Will Lambert, William Aimison, William H. Parr.

Now, Therefore, Be it resolved and enacted as a bylaw of this corporation, that all the acts of and essential to said reorganization, on the part of said John D. Vaughan, Amos J. Cummings, George W. Morgan, Will Lambert, William Aimison, William H. Parr, and of said The Union Printers Homes as originally incorporated by, and the same as hereby in all respects confirmed, ratified and adopted by this corporation as the acts of this corporation, and that any and every liability of said parties on account of such reorganization be and the same are hereby assumed by this corporation.

#### ARTICLE VII. THE HOME AT COLORADO SPRINGS

Whereas, The members of the International Typographical Union of North America have, by their individual efforts and with their separate means, procured land for the required site therefor, and the erection and construction at Colorado Springs, in the state of Colorado, of an institution or home for invalid and aged and infirm members, in good standing, of the said International Typographical Union; and

Whereas, The said members have in like manner and by like means provided an endowment for said institution or home, by which the same may be maintained and supported; and,

Whereas, The objects and purpose of said International Typographical Union and of this corporation are similar and alike in this, to wit : That each contemplates the suppression of vice and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers; and

Whereas, This corporation is supported and maintained by the members of said International Typographical Union; and,

Whereas, Said institution or Union Printers Home at Colorado Springs is now completed and ready for occupancy and the equitable title thereto is vested in trustees of the members of said union; and,

Whereas, With the belief that said Union Printers Home could be more economically and prudently managed by this corporation than by the members

of said union, who are of great number and widely scattered over the United States and Canada, it has been proposed that this corporation take in trust for said members the title to said Home.

Now, Therefore, Be it resolved and enacted as a bylaw of this corporation that the deed of trust for said land, executed on the 17th day of May, A. D. 1892, to this corporation be, and the same is hereby accepted, and this corporation, pursuant of such acceptance, undertakes to act as trustee in carrying out the trust by said deed created and which is expressed in the words and figures following to wit:

"This Deed, Made this seventeenth day of May, in the year of our Lord one thousand eight hundred and ninety-two, between Edward T. Plank, William S. McClevey, and Columbus Hall, as trustees for the International Typographical Union of North America, a voluntary association (unincorporated), whose principal office is located at the city of Indianapolis, in the state of Indiana, parties of the first part, and The Union Printers Home, a corporation organized under and by virtue of the laws of the state of Colorado providing for the organization of corporations for nonprofitable purposes, party of the second part.

"Witnesseth, That the said parties of the first part, by virtue of the authority in them confided as said trustees, and in consideration of the conditions and the trust and confidence hereinafter recited, defined, and declared.

"Have granted, bargained, sold, and conveyed and by these presents do grant, bargain, sell, and convey and confirm unto the said party of the second part as said trustee, to its successors and assigns forever, all the following described lots and parcels of land situate, lying and being in the county of El Paso, in the state of Colorado, to wit: The west half of the southwest quarter of section sixteen (16), township fourteen (14) south, range sixty-six (66) west, containing eighty (80) acres, more or less, together with all and singular the hereditaments and appurtenances thereto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof and all the estate, right, title, interest, claim and demand whatsoever of the said parties of the first part, or either of them, either in law or in equity of, in and to the above-bargained premises with the hereditaments and appurtenances.

"To have and to hold the said premises above bargained and described with the appurtenances unto the party of the second part as said trustees, its successors and assigns forever:

"Provided, always, And this conveyance is made upon the express condition of the performance of the trust and confidence herein and hereby declared, as follows, to wit:

"Whereas, The members of the said International Typographical Union of North America have by their individual efforts and with their separate means procured the above-described land for a situs, and the erection and construction thereon of an institution or home for invalid and aged and infirm members in good standing of the said International Typographical Union; and,

"Whereas, The said members have in like manner and by like means provided an endowment for said institution or home by which the same may be maintained and supported; and

"Whereas, The object and purpose of said International Typographical Union and of said grantee herein, viz: The Union Printers Home, are similar and alike in this, to wit: That each contemplates the suppression of vice and immorality, the advancement of skill, order, and health, and the promotion of industry and happiness among and in the craft of printers; and,

"Whereas, Said institution or home is now completed and ready for occupancy and the title thereto is vested in trustees of the members of said union; and,

"Whereas, Said home could be more economically and prudently managed by said The Union Printers Home than by the members of said International Typographical Union, who are of great number and widely scattered over the United States and Canada.

"Now, Therefore, To obtain and secure these desirable ends, and for no other purpose, this deed of conveyance is executed, vesting in said corporation, as trustee, the title of and to said real estate:

"First—Out of and with funds provided by the said International Typographical Union of North America the said party of the second part shall supply said institution or home with plain and suitable furniture, apparatus, and all other matters needful to carry the general design of this trust into execution.

"Second—After said institution or home shall have been supplied with plain and suitable furniture, apparatus, and all other matters needful to carry into execution the general design of this trust, the unexpended residue of the endow-

ment provided by said International Typographical Union and the income, issues, and profits thereof, together with any income, issues, and profits arising from and out of the sale or lease of any part of the above-described land shall be applied to maintaining the said institution or home according to the directions herein.

"Third—Forthwith upon said party of the second part entering into possession under this deed, the Treasurer of said corporation shall execute to said corporation his good and sufficient bond in the penal sum of \$25,000, lawful moneys of the United States, conditioned upon the faithful performance of his duties as such Treasurer in caring for the funds and property of this trust which may come into his possession. Such bond shall be executed in compliance with the laws of the state of Colorado and shall be construed according to said laws. Annually thereafter said Treasurer shall in like manner execute a similar bond: Provided, however, That the penal sum of any subsequent bond so given shall be in such amount as said corporation by its proper officers may direct.

"Fourth—That said institution or Union Printers Home shall be organized as soon as practicable by the selection of competent officers and servants, and to accomplish that end more effectually due notice of the intended opening shall be given.

"Fifth—A competent number of officers, physicians and surgeons, nurses, servants, and other necessary agents shall be selected, and when needful their places from time to time be supplied. They shall receive adequate compensation for their services; but no person shall be employed who shall not be of tried skill in his or her proper department, of established moral character, and in all cases persons shall be chosen on account of their merits and not through intrigue or favor: Provided, however, Nothing herein shall prevent any resident of said Union Printers Home from rendering such gratuitous service as he may be able and willing to render.

"Sixth—As many invalid and aged and infirm members of said International Typographical Union as the endowment shall be adequate to maintain in said Union Printers Home shall be introduced into The Union Printers Home as soon as possible, and from time to time as there may be vacancies or as increased ability from income may warrant, others shall be introduced.

"Seventh—On the application for admission an accurate statement shall be taken in a book prepared for the purpose, of the name, birthplace, age, health, conditions as to relations, place from which sent, and other particulars useful to be known of such person admitted.

"Eighth. No person shall be admitted as a resident of said Union Printers Home except members in good standing of said International Typographical Union of North America, and such eligibility shall be determined by the proper authority of said corporation upon the facts presented in the application for admission: Provided, however, That in case of emergency, the President of the corporation may, on proper showing of urgency, admit an applicant to said Union Printers Home, pending investigation of the eligibility of said applicant to share the bounty of this trust: And provided further, That the power be, and is hereby, reserved to the Board of Trustees of said The Union Printers Home to exclude therefrom persons suffering from such diseases as said Board may deem it inexpedient to admit, contemplating the suppression of vice and immorality, the advancement of skill, order and health, and the promotion of industry and happiness among and in the craft of printers.

"Ninth. Those persons whose admission application shall first be made shall be first introduced, all other things concurring, and at all future times priority of applications shall entitle the applicant to preference in admission, all other things concurring; but if there shall be at any time more applicants than vacancies, and the applicants be suffering from different afflictions, or be of different degrees of infirmity, then a preference shall be given (1) to the afflicted as against the infirm; (2) to those of the afflicted to whom the greatest probable good can be done by admission as against those to whom a less degree of good is probable; and (3) to those of the infirm whose infirmity is greatest. In all things it shall be the duty of said trustees, its officers, and servants in the administration of the affairs of this trust to contemplate doing the greatest good with the resources at hand to the end that the welfare of this trust shall be conserved, and that the Home shall become and be an example worthy of emulation on the behalf of other crafts and orders.

"Tenth. The persons admitted into said Union Printers Home shall be there fed with plain but wholesome food, clothed with plain but decent apparel (no distinctive dress ever to be worn), and lodged in a plain but safe manner; due regard shall be paid to their health, comfort, and happiness, and to this end their persons, clothes, and apartments shall be kept clean, and they shall have

suitable and rational exercise and recreation. And as to the character of this exercise and recreation there shall be no restrictions, except that it shall be taken at timely hours, and shall be moral and temperate in all its respects. In this behalf much may be suggested to the Board of Trustees of said corporation by the topography and character of the grounds of the institution, and it is recommended without being made a duty of said Board that landscape gardening, or some similar vocation, be undertaken on said grounds as a source of exercise and recreation to the persons domiciled at said Home. But no task or duty shall ever be imposed under the guise of exercise or recreation on any resident of said Home, nor shall any resident, officer, or servant of said Union Printers Home be permitted to engage in any money-making scheme or act in connection with the property of said Union Printers Home: *Provided*, however, Nothing herein shall be construed as a restriction upon the clause of lease or sale herein-after contained.

"Eleventh. No charge, tax, fee, or assessment shall ever be made, levied, or collected from any person domiciled at said Union Printers Home. Its bounty shall be unpurchasable: its charity shall be given without price: *Provided*, however, That nothing herein contained shall be construed to prohibit any person from making to said Union Printers Home an absolute and unqualified donation.

"Twelfth. No duty shall be required of any resident of said Union Printers Home except the duty of good behavior and compliance with such rules for the discipline and administration of said Union Printers Home as the Board of Trustees of said corporation in their wisdom, and contemplating the purposes of this trust, may adopt.

"Thirteenth. Should it unfortunately happen that any person admitted to said Union Printers Home shall, from misconduct, have become unfit longer to remain, and mild means of reformation prove futile, such person shall be expelled therefrom.

"Fourteenth. The death of any resident of said Union Printers Home shall forthwith, upon its occurrence, be communicated by telegraph to the President of said International Typographical Union, and the remains of the deceased shall, for a proper length of time, be held waiting the order of said President. But if no response be had within a proper time from said President, then the remains shall be interred in a part of the grounds of said Union Printers Home which shall have been set apart for that purpose. In the burial of its unclaimed dead, The Union Printers Home shall provide a plain but neat robe and other essential garments, and a plain but neat casket, with such auxiliaries as may be requisite. Each grave shall be appropriately marked with a plain marble headstone, bearing the name of the deceased. The date of each death, the cause thereof, the duration of illness, the time given for answer from the notice of death sent to the President of said International Typographical Union, the place of burial, the cost of burial, and other particulars useful to be known shall be recorded in a book kept for that purpose: *Provided, however*, That should the Board of Trustees of said corporation, or the civil authorities having jurisdiction thereof, deem it not advisable to set apart any portion of the grounds of said Union Printers Home for cemetery purposes, or if after such cemetery has been established, either said Board or said civil authorities shall deem it expedient to abate such cemetery, said Board of Trustees may, out of the funds of this trust remaining unexpended, procure other suitable place of burial, and in so doing extravagance shall be avoided, to the end that the greatest possible amount of the funds of this trust shall be preserved for the care of the living.

"Fifteenth. If at any time the Board of Trustees of said The Union Printers Home find it to be impracticable and inconsistent with the objects and purposes of this trust to maintain as a part of the grounds of said Union Printers Home so large a tract of land as that hereinbefore described, then they may lease or sell and dispose of any part of said land not exceeding sixty acres, as they may deem expedient: *Provided, always*, That the rents, issues, and profits of any lease, sale, or disposition of property so made shall be forthwith and wholly turned over to the Treasurer of said The Union Printers Home, to be applied to the same uses and purposes as are herein declared of and concerning said trust generally. If the sale of said sixty acres, hereinbefore mentioned, shall have been made, and thereafter it shall be by said Board of Trustees found impracticable, on account of any particular circumstances of the location of said Union Printers Home, or the failure of endowment, or other sufficient reason, longer to maintain said Union Printers Home, then said Board of Trustees may sell and dispose of the remainder of said land, and the buildings and structures thereon, as they may deem expedient: *Provided, always*, That the issues and profits of such second sale or disposition of property so made shall be forthwith and wholly turned over



and surrendered to the Treasurer of said International Typographical Union, to be thereafter used as said union may direct. Any deed made by said Board of Trustees pursuant of the authority herein conferred shall contain a covenant of general warranty.

"Sixteenth. None of the moneys, principal, interest, or dividends, and none of the property of said trust or the rents, issues, or profits thereof, or acquired or arising by the virtue of or incident to said trust or the administration thereof, shall ever be applied to any other purpose or purposes whatever than those herein mentioned and appointed.

"Seventeenth. Separate accounts, distinct from the other accounts of the corporation, shall be kept by said corporation concerning the said trust, Home and funds, and of the investment and application thereof, and a separate account or accounts be kept in bank not blended with any other account, so that it may at all times appear on examination that the objects of this trust have been and are being fully complied with. And the said corporation shall render a detailed account annually to the said International Typographical Union at the commencement of its convention concerning the said trust, Home and funds, and shall submit all their books, papers, and accounts touching the same to a committee of said International Typographical Union for examination when the same shall be required.

"Eighteenth. It shall be the duty of said Trustees to defend the title at law in case of any suit brought respecting the title to the real estate hereinbefore described; give notice, if it may be useful or practicable, of any such suit to the said International Typographical Union, or its proper officers; keep the trust properly insured in good companies, using trust funds therefor; pay out of the funds provided all taxes, charges, and assessments; afford accurate information to said International Typographical Union of the condition and disposition of the trust property; if not possessed of all proper information to seek for and, if practicable, obtain it; manage The Union Printers Home and care for the residents thereof according to the intent and general design of this trust, and contemplating the purpose (1) for which said Union Printers Home was established and endowed, and (2) considering the mutuality of purpose which exists in the purposes of said The Union Printers Home and said International Typographical Union, to wit: That each contemplates the suppression of vice and immorality, the advancement of skill, order, and health, and the promotion of industry and happiness among and in the craft of printers.

"To all of which objects the said parties of the first part grant, convey, and confirm the said property as aforesaid, but if the said party of the second part shall knowingly and willfully violate any of said conditions, then and thereupon the said International Typographical Union, by its officers or agents by it in convention authorized and appointed so to do, shall have the right to enter upon said land and take possession as the absolute and unconditional owner thereof in fee simple.

"And the said parties of the first part for themselves, their heirs, executors, and administrators, do covenant, grant, bargain, and agree to, and with the said party of the second part, its successors and assigns, that at the time of the enrolling and delivery of these presents they are well seized of the premises above conveyed as of good, sure, perfect, absolute, and indefeasible estate of inheritance in law, in fee simple, and have good right, full power, and lawful authority to grant, bargain, sell, and convey the same in manner and form aforesaid, and that the same is free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, and incumbrances of whatever kind and nature soever, and the above, bargained premises in the quiet and peaceful possession of the said party of the second part as trustee, its successors, and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said parties of the first part shall and will warrant and forever defend.

"In witness whereof the said Edward T. Plank, William S. McClevey, and Columbus Hall, as Trustees for the International Typographical Union of North America, a voluntary association (unincorporated), whose principal office is located at the city of Indianapolis, in the state of Indiana, have hereunto set their hands and seals the day and year above written.

"EDWARD T. PLANK. [SEAL]

"WILLIAM S. MCCLEVEY. [SEAL]

"COLUMBUS HALL. [SEAL]

*"As Trustee for the International Typographical Union of North America, a voluntary association (unincorporated), whose principal office is located at the city of Indianapolis, in the state of Indiana."*

## ARTICLE VIII. UNION PRINTERS HOME ENDOWMENT FUND

SECTION 1. There is hereby created "The Union Printers Home Endowment Fund," the same to consist of such moneys and other property as may be donated, devised, bequeathed, or otherwise contributed to such fund.

SEC. 2. The principal of such fund shall be held perpetually by the Board of Trustees of The Union Printers Home and their successors, and shall be separate and distinct from other funds and be invested and reinvested in bonds of the United States, or in approved, nontaxable State, county, township, municipal, or school-district bonds within the jurisdiction of the International Typographical Union.

SEC. 3. The Executive Committee of the Board of Trustees of The Union Printers Home shall have power to invest the principal of The Union Printers Home Endowment Fund, or any part thereof, in securities of the character provided in section 2, subject to the approval of the Board of Trustees of The Union Printers Home.

SEC. 4. All interest and income derived from the investment of such fund, or any part thereof, shall be deposited to the credit of The Union Printers Home, and shall be used for the maintenance of The Union Printers Home.

SEC. 5. The Secretary-Treasurer of The Union Printers Home shall prepare and furnish a blank upon which donations to said Union Printers Home Endowment Fund may be made and there shall be printed annually in the report of the Board of Trustees a list of names of all contributors to The Union Printers Home Endowment Fund.

SEC. 6. The fund hereby created shall not preclude or affect the right of The Union Printers Home to receive devises and bequests and to accept and execute trusts as now provided by the Charter, Constitution, and By-Laws of the Union Printers Home.

## ARTICLE IX

These By-Laws may be altered or amended, with the exception of articles vi and vii, which are irrevocable, by the Board of Trustees. Proposed amendments shall be submitted in writing by the Secretary to the members of the Board, who shall each submit his vote in writing to the President, who, upon inspecting the same, shall deliver it to the Secretary for preservation among the records of the corporation. If two-thirds of the Trustees are in favor of the amendment, the President shall direct the Secretary to make such change in the By-Laws.

## RESOLUTIONS

1. Where applicants are admitted to The Union Printers Home the expense of transportation shall be defrayed by the local typographical union, when the applicant is unable to pay the same.—*Proceedings 1894, page 41.*

2. The Committee on Admission is instructed to exclude persons suffering from tuberculosis in the last stage and from infectious and contagious diseases.—*Proceedings 1894, page 41.*

3. The Board of Trustees is hereby authorized to appropriate from the Home Fund, upon proper application of the Superintendent, an amount equal to railroad fare from the place where application was made for admission to the Home; said amount to be expended by the Superintendent in purchasing transportation in whatever direction a discharged resident may select. Where a resident is discharged for misconduct, the amount appropriated shall be charged to the local union recommending him.—*Proceedings 1894, page 41.*

4. Applicants for admission to the Union Printers Home shall be members of the International Typographical Union for not less than ten continuous years, immediately antedating time of application: *Provided*, That members suffering from tuberculosis or other serious diseases requiring immediate temporary treatment may, at the discretion of the Board of Trustees, be admitted after attaining a continuous active membership of eighteen months in the International Typographical Union. Where the admission committee is satisfied that such affiliation was entered into to secure admission to the Home, the application shall be rejected.—*Adopted by Trustees of Home, September 1941.*

5. The Superintendent of the Union Printers Home is hereby given power to regulate the internal affairs of the Home, and if a resident proves obnoxious, and persists in his conduct, he should be discharged.—*Proceedings 1893, page 219.*

6. That the Superintendent of The Union Printers Home furnish, for publication in The Typographical Journal, a monthly statement of admissions to and

expulsions from the Home, names of unions sending residents and such other information as may be of interest concerning the condition of the residents.—*Proceedings 1894, page 41.*

7. That charges against the management or any officer of The Union Printers Home must be of a specific nature, and made in the regular manner provided by the rules of the institution and endorsed by the union which secured the admission of the resident preferring the same.—*Proceedings 1894, page 41.*

8. That residents be required, when able, to perform such duties as may appear proper to the Superintendent, subject to the judgment of the attending physician.—*Proceedings 1894, page 41.*

9. That residents who have vacated The Union Printers Home and received transportation shall be required, before being readmitted, to refund the amount of such transportation.—*Proceedings 1896, page 123.*

10. That the Board of Trustees be and is hereby directed to make an allowance as soon as possible of at least \$1 per week to members of subordinate unions now or hereafter in The Union Printers Home, whose unions are unable to make any financial provision for them.—*Proceedings 1924, page 73.*

11. Residents vacating The Union Printers Home, when found guilty of disposing of the transportation furnished, shall be required to refund the full amount of such transportation.—*Proceedings 1896, page 123.*

12. That the Board of Trustees of The Union Printers Home be instructed by this convention to incorporate in its rules a provision that all applications for admission to The Union Printers Home be accompanied by a medical report made by a physician selected by the union in which such applicant holds membership.—*Proceedings 1909, page 264.*

## AGREEMENT

BETWEEN THE INTERNATIONAL TYPOGRAPHICAL UNION, THE INTERNATIONAL PRESSMEN AND ASSISTANTS UNION, THE INTERNATIONAL BROTHERHOOD OF BOOKBINDERS, THE INTERNATIONAL STEREOTYPERS AND ELECTROTYPERS' UNION, AND THE INTERNATIONAL PHOTOENGRAVERS' UNION

The duly authorized representatives of the International Typographical Union, the International Printing Pressmen and Assistants' Union, the International Brotherhood of Bookbinders, the International Stereotypers and Electrotypers' Union, and the International Photoengravers' Union have entered into the following agreement for the formation of an association for a joint ownership of the allied printing trades union label.

## ARTICLE I

SECTION 1. This body shall be known as the International Allied Printing Trades Association.

SEC. 2. The objects of this association are to designate the products of the labor of the members thereof by adopting and registering a label or trade-mark designating such products.

SEC. 3. To that end the association shall by its board of governors adopt a label to be known as "Allied Printing Trades Label," which label shall be used to distinguish the product of the labor of the members of the association; and the association shall exercise jurisdiction throughout the United States of America and Canada in regard to said label, and over subordinate local organizations which shall be established and maintained in accordance with the provisions of these laws.

## ARTICLE II

### MEMBERSHIP

SECTION 1. All members in good standing of the International Typographical Union, the International Printing Pressmen and Assistants' Union, the International Stereotypers and Electrotypers' Union, the International Brotherhood of Bookbinders, and the International Photoengravers' Union shall be members of this association. But before the members of any of the said unions shall become members of this association they shall, by appropriate action taken by them at a convention, or on referendum vote or otherwise in manner approved

by the respective unions, duly declare their intention and desire to become such members and agree to abide by all laws and regulations now or hereafter adopted for the government of this association, and shall at the same time provide who shall constitute their representatives on the board of governors hereinafter provided for in article iii. And any member ceasing to be a member in good standing in one of said unions shall thereby cease to be a member of this association.

### ARTICLE III

#### BOARD OF GOVERNORS

SECTION 1. The affairs of this association shall be conducted and governed by a board to be known as the "Board of Governors." Said board shall also be trustee of, and hold title to, any label adopted by the association and all other property of the association and they shall cause to be registered such label in all states, territories and District of Columbia, in the United States, and Dominion and Provinces of Canada where registration is or may be hereafter authorized by law.

SEC. 2. The board of governors shall consist of eight members. For the purpose of selecting those members the membership of this association shall be divided into five groups, as follows:

One group consisting of those members who are also members of the International Typographical Union, who shall select four members of said board; one group consisting of those members who are also members of the International Printing Pressmen and Assistants' Union, who shall select one member of said board; one group consisting of those members who are also members of the International Sterotypers and Electrotypers' Union, who shall select one member of said board; one group consisting of those members who are also members of the International Brotherhood of Bookbinders, who shall select one member of said board, and one group consisting of those members who are also members of the International Photo-Engravers' Union, who shall select one member of said board.

The selection of said members of said board of governors shall be in the manner and by the mode adopted by the several groups of members above specified, respectively.

SEC. 3. The members of said board shall hold office until their successors are duly chosen. Should any member of said board cease to be such member his successor shall be chosen or designated by the group who had selected such member in such manner as such group may determine. No member of said board shall continue in office after he has ceased to be a member of this association.

SEC. 4. The officers of the board of governors shall be a president, vice president and secretary-treasurer, and such other officers as the board may determine, who shall be selected by a majority vote. But no two executive officers shall be members of the same trade-union.

SEC. 5. Regular meetings of the board of governors shall be held on the first Monday in November, March, and July of each year, at the place decided upon by a majority vote of the board of governors, written notice of which shall be mailed to each member of the board by the secretary-treasurer thereof. At the regular meeting in March the officers of said board shall be nominated, elected and installed for the ensuing year. If any vacancy occurs during the ensuing year it shall be filled from members of the board.

On written demand of a majority of the members of the board the president shall call a meeting at a convenient time and place designated by the president and after written notice is mailed to each member of the board.

In the event of any member of the board being unable to attend any meeting he may delegate his power and authority to a proxy, who, however, shall be a member of the same trade-union of which the member giving the proxy is a member. Upon the filing of properly presented credentials to the board of governors said proxy shall be accorded all rights and privileges due the member for whom he is proxy.

When any group shall have more than one representative on the board of governors, then in the absence of any member or members thereof selected by said group the other member or members of the board selected by such group may cast the full vote to which said group shall be entitled without having any proxy to do so.

Between meetings the secretary-treasurer may submit any question calling for prompt action to the consideration of the members of the board of governors by mail, and the members shall vote by mail. Their votes shall be canvassed and announced by the secretary-treasurer and given the same effect as though cast at a meeting, and all such proceedings shall be reported by the secretary-treasurer at the next regular meeting of the board.

All questions coming before the board of governors shall be decided by unanimous vote, except as provided in sections 4 and 5 of this article. In the event of failure of the board of governors to agree unanimously upon any proposition or propositions submitted to it, then any one or more of the members of said board may demand that such proposition or propositions be submitted to a disinterested person for decision, and such disinterested person shall be selected by the unanimous vote of the board of governors; but if said board shall fail to agree upon such disinterested person, then those persons shall be selected by the president of the American Federation of Labor, and the decision of such person so selected shall be final and binding upon the board of governors. Notice of the demand to submit any such proposition or propositions for decision to a disinterested person, as aforesaid, must be given during the session in which such proposition or propositions arise, and the settlement of such proposition or propositions shall proceed to determination as speedily as circumstances permit, not to exceed thirty days from the time said notice shall be given, unless the time shall be extended by the board of governors.

SEC. 6. The board of governors may adopt such rules of procedure in the hearing of appeals and in the conduct of such other businesses as may properly come before it as do not conflict with any of the general laws of the association.

## ARTICLE IV

### LOCAL ALLIED PRINTING TRADES COUNCILS

SECTION 1. In localities where there are subordinate unions chartered by two or more of the unions mentioned in article ii hereof, a local allied printing trades council shall be formed, the jurisdiction of which shall be determined by said board of governors. Within such jurisdiction no member of the International Allied Printing Trades Association shall use any trade label other than that issued by said International Allied Printing Trades Association through the local allied printing trades council, and all unions whose members are members of the International Allied Printing Trades Association shall withdraw from said jurisdiction their union label.

SEC. 2. It shall be composed of members chosen by and from those who are members of said subordinate unions, three being appointed or elected from each union in the manner and by the mode adopted by the members of the union. The selection of the three members from the membership of each of said unions shall be certified to said local allied printing trades council, and the three members of each class shall continue to be members of said local council for a term of one year and until their successors are duly chosen and certified by the members of that class. No one shall be at the same time a member of more than one local allied printing trades council.

SEC. 3. Each member present at any meeting of a local allied printing trades council shall be entitled to one vote. But a roll call may be demanded by any member on a question involving the raising of revenue or the election of officers, and on said roll call each member shall be entitled to additional votes, as follows: For fifty (50) members of the local union to which he belongs, one vote for each additional fifty (50) members or major fraction thereof up to three hundred (300) members, one vote; for the next two hundred (200) members or major fraction thereof, one vote; for each additional five hundred (500) members or major fraction thereof, one vote, the membership to be computed in accordance with the last per capita tax paid by each local union.

SEC. 4. Local allied printing trades councils shall elect as officers a president, vice president, and secretary-treasurer and such other officers as the local council may determine. And said local councils may adopt such provisions and rules for their government as are not in conflict with the purpose and provisions of the general laws of the International Allied Printing Trades Association or in conflict with the rules and laws of the board of governors of said International Allied Printing Trades Association.

SEC. 5. The funds of each local allied printing trades council shall be under its control, and shall be on a per capita basis.

## ARTICLE V

## APPEALS

SECTION 1. Appeals may be made to the board of governors from the decision or action of any local allied printing trades council. In such case the appellant must within ten days from said decision or action file notice of his intention to appeal with the president, vice president, or secretary-treasurer of the local allied printing trades council; and within thirty days from said decision or action the appellant shall forward to the secretary-treasurer or the board of governors ten typewritten copies of the appeal papers, serving one copy on the president, vice president, or secretary-treasurer of said local allied printing trades council. After such service said local allied printing trades council shall have thirty days in which to file with the secretary-treasurer of said board of governors ten typewritten copies of its answer. And no such appeal shall be considered by the board of governors unless it shall be approved by the local union of which the appellant is a member; such approval being evidenced by the certificate of the president and secretary of that union; which said certificate shall accompany the appeal papers at the time they are forwarded to the secretary-treasurer of the board of governors.

SEC. 2. When the papers are complete in each case the secretary-treasurer of said board of governors shall forward one copy of the papers to each member of said board of governors. Thereupon each member shall consider the case thus presented to him and within thirty days after the receipt of the documents each of said members shall file an opinion in the case with the secretary-treasurer of the said board of governors, and within thirty days after the opinions of the members have been received by the said secretary-treasurer and submitted to the several members of said board for final action, the members of said board must register their votes on the appeal.

## ARTICLE VI

## USE OF THE UNION LABEL

SECTION 1. The International Allied Printing Trades Association, by its board of governors, shall procure, own and control the allied printing trades label.

SEC. 2. It shall by action of its board of governors and in accordance with and subject to the provisions of these laws, loan the same to local allied printing trades councils as agents of said International Allied Printing Trades Association upon receipt of a sum of money from the local council, not exceeding ten (10) per cent above the cost of production and distribution of said label.

SEC. 3. No allied printing trades council shall issue any label not procured from said International Allied Printing Trades Association, nor duplicate nor allow the duplication of said labels except in the case of stereotyped or electrotyped forms, in which case the label appearing in the plate or plates shall be destroyed immediately on completion of the work on which it is used.

SEC. 4. No other body than the local allied printing trades council shall be allowed to grant the use of the allied printing trades label in any jurisdiction: *Provided, however,* That the board of governors of said International Allied Printing Trades Association may order the issuance or withdrawal of the label or issue said label direct where, in its judgment, said action is necessary.

SEC. 5. All labels must be procured by local councils from the secretary-treasurer of the International Allied Printing Trades Association. Any infraction of this rule, shall be deemed sufficient cause for the dissolution of the local council so offending. Linotype or other matrices of the label may be purchased through the secretary-treasurer of the International Allied Printing Trades Association, the cost thereof to be paid by the local council, but the matrices to remain the property of the International Allied Printing Trades Association and to be surrendered to the association upon order of the board of governors thereof.

SEC. 6. All labels shall be issued or withdrawn by unanimous consent of local councils. Should any cause or grievance arise because of the issuance or withdrawal of the label by any local council the matter must be presented to said board of governors, and it shall be the duty of said board to consider or reconsider and determine the matter, giving to the parties in interest such opportunity to be heard as the president of said board of governors may deem needful.

## ARTICLE VII

## FINANCES

SECTION 1. The necessary funds for the establishment, maintenance and carrying on of this association and its work shall be under the control of the board of governors, and same shall be furnished by the several groups in the proportions following:

One-half by the members of this association who are also members of the International Typographical Union; one-eighth by the members of this association who are also members of the International Printing Pressmen and Assistants' Union; one-eighth by the members of this association who are also members of the International Stereotypers and Electrotypers' Union; one-eighth by the members of this association who are also members of the International Brotherhood of Bookbinders, and one-eighth by the members of this association who are also members of the International Photo-Engravers' Union.

When the board of governors shall determine that any funds are necessary, the secretary-treasurer of this association shall notify the proper officers of each union mentioned in article ii of the proportionate amount due from the members of such union who are also members of this association and such notice shall be notice to each member of this association who is also a member of such union.

SEC. 2. All funds of the association shall be deposited in bank subject to withdrawal according to regulations adopted by the board.

SEC. 3. The members of the board of governors shall not be paid out of the funds of this association for their services or for their expenses incurred while acting as such members of the board of governors.

SEC. 4. Should any group withdraw from this association, then such group shall forfeit all rights and interest in and to any and all labels registered by this association, and in and to all property and effects of this association.

## ARTICLE VIII

## AMENDMENTS

SECTION 1. Amendments to these laws may be made from time to time, as follows: The proposed amendment shall be submitted to the secretary or the secretary-treasurer of each of the international unions mentioned in article ii hereof, to be submitted by him to a general convention of the union or to the members of the union through their local unions. If the convention or a majority of the members of the international union acting thereon shall assent to the proposed amendment, such assent shall be binding upon all members belonging to that union, and shall operate as the assent of all belonging to that union to the proposed amendment. If the member belonging to all said international unions shall thus signify their assent to the proposed amendment it shall be considered as adopted and shall henceforth operate as a law of this association.

The above agreement was unanimously ratified at a meeting of representatives of the international unions above mentioned on March 7, 1911.

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 PROTECT YOUR MEMBERSHIP AND GOOD STANDING

Each member should be familiar with the laws governing good standing. The penalties of delinquency are severe, and the penalties of suspension are still more drastic. They can be avoided by payment of dues within the period specified by International law.

Local unions are directed by law to pay the dues and assessments of a member who "is sick or disabled, and who shows that he is in destitute circumstances" (section 8, article vii, bylaws). Sums expended by local unions for such purposes constitute a proper charge against the mortuary benefit of a deceased member. (Article xviii, bylaws.)

Pay your own dues and assessments promptly. Report to the local union any sick and destitute member who is unable to pay his own dues and assessments and who is not informed of his rights under the law.

In the fiscal year ended May 20, 1948, the International Typographical Union received from the pockets of its members a total of \$11,322,637.55. It paid back to its members in benefits a total of \$10,269,391.76. The balances in the pension

fund, defense funds, and general fund have been increased. Income from interest on invested funds assisted to that end.

Here is the proof:

Received from members in per capita tax and assessments-----	\$11, 322, 637. 55
Paid back to members in direct benefits--	
1,448 mortuary benefits-----	677, 795. 73
7,200 pensioners-----	4, 697, 066. 00
Lock-out benefits and special assistance-----	4, 262, 156. 13
354 members in Union Printers Home-----	531, 313. 52
\$6,434 copies Typographical Journal monthly-----	101, 060. 38
	<hr/>
	\$10, 269, 391. 76

(From table 32, annual report.)

#### AFTERNOON SESSION

(The committee reconvened at 2:35 p. m.)

The CHAIRMAN. Senator Taft will ask questions.

Senator TAFT. I have only a few more questions. Mr. Randolph, I just wanted to follow the examples of these rules and have your comments on them.

#### STATEMENT OF WOODRUFF RANDOLPH—Resumed

Mr. RANDOLPH. May I just, before you start, Chairman Thomas, say that during the noon recess I checked with my office to see if the newspaper accounts were available in my files with regard to Mr. Denham's speech and Mr. Shroyer's speech.

I find they are not there, but I do find that the bulletin of the American Newspaper Publishers Association of September 23 or 26, 1947, page 933, does give Mr. Denham's speech, and editorializing with reference thereto, to the effect that his speech was definitely contrary to the policy of the ITU. That is the only documentary statement I am able to find in my files. But my opinion as to the attitude of both Mr. Shroyer and Mr. Denham was made up because of these two newspaper quotations which, of course, may not have been exact, and the bulletin of the ANPA in reference to Mr. Denham's speech.

I want to make that clear so that it cannot be stated that I misrepresented these gentlemen. I accepted an attitude on their part which I regard as hostile, and which I now believe history has proven to be the case.

Senator TAFT. The speeches will be put in the record in full, I take it. They will be furnished—

The CHAIRMAN. Yes.

Senator TAFT. They will be furnished and put into the record?

The CHAIRMAN. Yes.

(Mr. Shroyer subsequently submitted his speech delivered at French Lick, Ind., as follows:)

#### FRENCH LICK SPEECH OF THOMAS E. SHROYER, SEPTEMBER 22, 1947

Some years ago when I was regional attorney for the National Labor Relations Board in Cleveland, I spoke at a luncheon meeting of a suburban club. At the conclusion of my remarks, one of the members from the back of the room inquired as to what I had to say about time and a half pay for hours over 40. I replied that this question had to do with the wage-and-hour law and not with the Wagner Act and was a subject with which I was not especially familiar;



whereupon he made the quite audible side remark to one of his colleagues, "My God, we got the wrong man."

When your secretary invited me to speak at this meeting, my immediate reaction was a "wrong man" feeling again. I can think of no industry about whose daily operations I have less personal knowledge than the printing industry. However, labor relations are not too variable a quantity from industry to industry. You in the printing industry have just come a little farther down the road than mass-production industry, in general. Unionism in your field antedated by some 100 years the general unionization of mass production industry.

In an attempt to discover how your association had been thinking with respect to labor legislation, I pulled out the brief you filed with the Senate Labor Committee last spring. I had read it at the time it was filed during the hearings but had had no occasion to reconsider it after the bill became law. It is interesting to note just how many of your suggestions actually were incorporated into the new law. It indicates again that you in the printing industry have pretty much the same labor-relations problems as other industries. It also demonstrated to me that your association has taken a reasonable, fair-minded approach to those problems. You merely desired equality under the laws and regulations. I found no expression of a desire to destroy labor gains or to avoid collective bargaining with the representative of your employees.

I want to come back to the eight specific recommendations made by your association and tell you how many of them found their way into the new law, but first I believe you might be interested in knowing a little about how that law was written. My own experience was on the Senate side of Capitol Hill, with the exception of the 2 weeks in which the Senate and House conferees met to work out the differences in the two bills passed by their respective Houses.

The Senate committee commenced work on an over-all labor bill in January. There were 44 individual labor bills introduced in the Senate, and the House had many times more. I sincerely doubt that there is any subject upon which so many people have definite opinions. We had 8 weeks of hearings and heard from labor, management, and the public. If I ever testify before a congressional committee, I am going to stick to facts and examples. They are more impressive. One witness described the following incident: A worker in an industrial plant in southwestern Ohio observed a fellow employee slug a foreman. He was later subpoenaed to testify as to what he had seen. For having so testified against a fellow union member he was expelled from the union for conduct unbecoming a member of the union. The plant was operating under a closed shop. The union then demanded his discharge, and the employer was forced by his contract to comply.

That incident and hundreds like it had a lot to do with the fact that the new law goes so far in regulating compulsory union membership.

People from every State and every walk of life wrote to their Senators and Congressmen. While the bill was being considered, Senator Ball received 700 letters per day on labor (he didn't count postcards). Senator Taft's mail on the subject was comparable and at times exceeded that of Senator Ball. Almost without exception, these people wanted something done about the closed shop, Communists in the labor movement, rackets, boycotts, and jurisdictional strikes, dictation from labor leaders, high initiation fees, misuse of welfare funds, and unnecessary strikes. With this volume of mail coming in from their constituents, legislators in both Houses of Congress became very labor-legislation conscious. The Senate Labor Committee had a very busy 5 months. It was fortunate in having a number of Senators who knew a lot about labor. It would be difficult to assemble a group of men better informed on this subject than Senators Taft, Ball, Ives, Morse, and Ellender.

Senator Taft, as chairman of the committee, and Senator Ball, took the lead in drafting a bill. I believe their purposes may be summarized as an attempt to balance the rights of labor with certain responsibilities which it had failed to assume voluntarily. It was an attempt to correct the abuses of discretion by the National Labor Relations Board. It was an attempt to provide remedies for well-recognized abuses.

There had to be compromise of ideas, but Congress did come up with a law to be proud of. Will it remain unchanged? In the eyes of its supporters the Wagner Act was a sacred document that could not be touched, and all attempts to amend it were fought off for 12 years. The framers of the Taft-Hartley Act had a different attitude, which is demonstrated by the creation of the Study Committee within the statute itself. They wanted to be kept advised by a day-to-day check on the operation of the new law. They wanted to know whether

it was meeting its objectives. At the same time, they desired a long-range study of major problems with a view to future legislation. All 14 members of the Study Committee are members of the permanent standing committees of the Senate and House which must consider the various labor bills which will continue to be introduced.

The leaders of organized labor are continuing their attack on the Taft-Hartley law. Their hue and cry is in general terms. It must be. They cannot defend any of the abuses the act seeks to remedy. The act is not revolutionary. It is but a step forward in the evolution of the Nation's labor policy. The growth of unions fostered by the Wagner Act made necessary legislation for the protection of the public interest and the welfare of individual workers.

Certain rights and protections were also given to employers. You are, in the main, small employers, and I don't need to tell you that the inequality of bargaining power which the unions talk about often finds the employer on the short end of the scale.

Just what can an employer do, even a fairly large one, when, for example, the teamsters union lays down its contract with the ultimatum that "nothing moves in or out until this is signed?" A small employer has many times found himself pitted against an international union where refusal to accede to its demands means ruination of his business. It seems to me that our economists in the last few years have been talking too much in generalities without considering the individual workman or the individual employer. Thus, we find them saying that a certain industry can afford to pay a certain percentage wage increase without increasing prices because that industry made a certain percentage of profit during the last year. But you just can't lump thousands of employers together in that fashion. Some could pay the average or higher; others, because of particular local conditions, couldn't pay a penny.

Coming now to those eight recommendations made by your association to the Senate Labor Committee:

1. Legislation making it an unfair labor practice for a union to refuse to bargain in good faith with a representative of the employer. You will find that that is the law today by virtue of the Taft-Hartley Act.

2. Legislation making it an unfair practice for a union to fail to appoint a representative with power to reach an agreement at the bargaining table. The new law makes the tests of failure to bargain in good faith apply equally to unions and employers. If the Labor Board construes the act, as it has in the past, to make the failure to appoint a representative with such authority as evidence of bad faith bargaining, the same will be true of the union's failures in such respect.

3. Legislation guaranteeing to the employer the right of "free speech." You will find that the Taft-Hartley law provides for such right. Opponents of the new law waxed eloquent on this provision on the floor of the Senate. It was said that since the Constitution guaranteed such right, it was downright silly for the Congress to write it into legislation. While the courts also in construing the Wagner Act have said that the Labor Board couldn't find a violation where an employer merely told his employees what he thought about the union and advised them to stay out of it. However, an employer who later discharged any employee active in the union was always confronted with that prior free speech of his as showing an antiunion motive for the discharge. While he had the right of free speech, he used it at his peril. It was given to him with one hand and taken away with the other. Under the new law, such statements on the part of an employer cannot even be admitted as evidence unless they contain a threat or a promise.

4. You recommended that it be made an unfair labor practice for one union to cause an employer to violate an existing and valid contract with another union. On this one, Congress went one step farther. It not only made it an unfair labor practice, but it also gave the right of action for damages to employers injured thereby and also ordered the Labor Board to obtain a temporary injunction in such cases while it was disposing of them. I don't believe anyone can justify the jurisdictional strike or secondary boycott. International unions for several generations have been trying to settle jurisdictional disputes without success. Now the Government is going to take a hand. We, on the study committee, are especially interested in the success of the new law in this field. If the procedure provided for doesn't commence their elimination, we will have to devise new procedures.

5. You requested that it be made an unfair labor practice for a union to coerce an employer in the selection of his representative, and section 8 (b) 1 of the new act so provides. Under the new law, I believe it would be a violation for a

union to restrain or coerce an employer in the selection of a trade association to bargain for him, or in the selection and retention of a foreman to handle his grievances.

6. Your association also requested Congress to do something about foremen. It was your suggestion that a foreman should not be required to join a union as a condition of employment, and unions should not have a right to discipline foremen. The framers of the new law were convinced that if foremen are to represent management, they should be a part of management and not of the union, and, in any event, not belong to the same union as the rank and file of employees. The experience of the National Labor Relations Board, in which supervisory employees were held first not to be entitled to benefits of that act, and later entitled to the benefits, provided they were in units separate from production employees, has demonstrated that it is impossible to have a union supervisory employee truly independent of other unions. Congress has, therefore, provided that supervisory employees are not employees within the meaning of the National Labor Relations Board Act. There is no prohibition against foremen joining unions but the employer is not required to recognize them. He can discipline them if they do join, and he would be under no compulsion to recognize and bargain with a union which accepts foremen to membership. Foremen are thus in the same position as all employees prior to passage of the Wagner Act in 1935.

7. Your association made two other requests, both of which have to do with the subject debated in Congress and described as industry-wide bargaining. You recommended that it would be an unfair labor practice for an international union to force its own whole body of recommendations and regulations into a contract, and you also recommended that only the workers in the plant involved should have the vote to approve or reject agreements. The hearings conducted by the Senate Committee this year made out a good case for some regulation of compulsion by international unions of their constituent locals. The committee was given hundreds of examples of cases where the employer and the local union were in complete agreement as to the terms of a new contract but were still called on strike because some provision insisted upon by the international union was omitted; thus, the local could not contract for a 15-cent an hour increase if the international union had decided on a national pattern of 16 cents. Union witnesses admitted this practice. Two suggested remedies were offered on the floor by Senator Ball, one of which made it an unfair labor practice for an international union to attempt to coerce or compel a constituent local to include or omit some provision from its contract. That amendment also required the National Labor Relations Board to certify the local union in all cases. It was the thought of the framers of this amendment that if autonomy could be returned to the local union, a great step would be taken toward correcting the monopolistic situation which develops under industry-wide bargaining. The amendment did not require the local union to exercise its autonomy; it merely gave it a right to do so if it chose. The other amendment proposed by Senator Ball would have prohibited industry-wide bargaining by confining bargaining to a metropolitan district or county. Both amendments were defeated on the floor of the Senate.

The printing industry of America, therefore, had a pretty good batting average on the success of its proposed amendments. You made eight suggestions. Six became law and the other two are in the field of industry-wide bargaining, and we are not through with that subject. It has priority on the agenda of the study committee.

Your secretary requested that I tell you about the study committee, why it was created and what it proposed to do.

Several bills were introduced at the beginning of the last session of Congress providing for a study of the entire field of labor relations, with no legislation on this subject to be passed until such a study had been completed. The majority of the Senate, however, was of the opinion that immediate legislation was necessary, and that it might be profitable to have a continuing study both as to the effect of that legislation and of the need for further legislation. Nothing of this nature has been previously attempted by Congress. True, the House of Representatives has had numerous investigating committees which have investigated some specific labor problem, such as the Smith Committee, which investigated the National Labor Relations Board; and several small subcommittees which are now investigating rackets, communism, etc., in unions. This committee is a horse of a different color. It is a committee created by statute, and the breadth of its studies has in no way been limited. Its work will be completely objective. It is not a case of knowing an evil that exists, having a

remedy, and then going out to dig up facts to support and show justification for the remedy.

A somewhat similar approach has been carried out for a number of years in New York State. There, a bipartisan committee was created to make a continuous study of labor relations both in that State and other States. The New York State study committee has, from time to time, made recommendations to the State legislature, and almost without fail, its recommendations have later been written into the laws of the State.

Staff work has already commenced on five subjects. Briefly, they are:

- (1) Study of labor relations in a selected number of plants.
- (2) Observation of the Taft-Hartley law in all of its phases.
- (3) Investigation of industry-wide bargaining.
- (4) Investigation of welfare funds.
- (5) Study of union constitutions and organization, and the same with respect

to employer associations.

In choosing a number of plants for a particular study, the committee has attempted to secure diversification. We want to study a typical company in rubber, in steel, in coal, in glass, in clothing, in shipping, etc. The names of the companies selected for such study will not be revealed for the time being. One or two investigators are now at the selected companies making a complete investigation of labor relations. In making these studies we have been successful in obtaining the cooperation of both union and management. We believe that such studies will be of great assistance in any hearings which may be conducted. In the past, standing committees of both the Senate and the House have annually held hearings on labor, and various top officials from both industry and labor have testified. In too many cases their testimony represents a summary of what the board of trustees of the company or the union have decided should be told the Congress. Too often the witness cannot answer questions because he is voicing the opinions and facts given him by many others rather than his own personal observations. We believe that by staff work in advance of hearings, such hearings can be made more productive of facts and give to the members of the committee a better understanding of how collective bargaining works and where it breaks down.

Personally, I consider the study committee's job of watching the operation of the Taft-Hartley law to be its most important function. It involves a day to day observation of how the new law is being administered by the various departments, bureaus, and agencies entrusted with its administration.

Title III of the new law creates action for damages for violation of its provisions with respect to jurisdictional strikes and secondary boycott. It gives jurisdiction to the Federal courts for suits in violation of contract. The study committee is keeping a file on every such suit instituted in any place in the United States. We want to know if there are any successful defenses which were not considered in the framing of that portion of the law. In other words, are there any bugs in it?

The committee heard considerable testimony of actual instances of secondary boycotting. Let me cite two which were of particular interest to the committee. In Cleveland, Ohio, a manufacturer of electric equipment had an NLRB election to determine the choice of his employees. Both the CIO and A. F. of L. were on the ballot. The CIO won. His equipment was of a type which requires installation, and in that field the A. F. of L. is the only union in the picture. The A. F. of L. refused to install his equipment because it was not made by the A. F. of L. The manufacturer was required by law to bargain with the CIO. If he did, he could not sell his products. The last time I heard anything about it, he was making metal kitchen stools.

Another example is a New York City situation where local 3 of the A. F. of L. electrical workers refuses to install any electrical equipment unless the equipment has been made by employees of the same local. In other words, it will not install electrical equipment purchased outside New York City, since local 3 is a New York City local. The exception is if the local is permitted to completely dismantle the equipment and rewire it, then it will install it. The committee will observe very closely the first suits involving this type of situation. The committee wants to know whether it has remedied the abuses it was seeking to meet.

The Department of Justice must enforce the restrictions with respect to political contributions and expenditures, and also prosecute any violations of the welfare fund restrictions. The committee will watch very closely the activities of that Department in these fields—not with a view of telling Justice how to

prosecute violations, but in order to keep the Congress fully informed as to how the new legislation is operating.

The National Labor Relations Board has by far the bulk of the administration of the new law, and the committee will therefore examine very closely its activities. I would expect that as the Board begins to process new cases arising under the law, we will hear many, many complaints. I hope that the committee does not get too many of that type of complaint which is always made by the losing party in any lawsuit. If, however, the law is being maladministered, we are going to investigate it and will not hesitate to hold hearings on it.

I have already referred to the subject of industry-wide bargaining. We are examining bargaining in those industries where it exists—coal, steel, glass, clothing, maritime, meat-packing, and trucking. We want to know its history, the procedures followed, the types of agreements reached and the effect on labor relations, and, above all, the effect on the national economy.

The Taft-Hartley law provides restrictions on welfare funds, such as joint control; it specifically limits the purposes to which the money supplied by the employer can be applied. It also provides for annual audits, and in other ways tries to safeguard the rights of the individual worker in such funds. These provisions were borrowed from the Case bill of last year, which failed to pass over the President's veto. Probably John L. Lewis' demand for a union-controlled welfare fund at the time the Case bill was being considered had much to do with its being written into that law. It is interesting to note that in the miners' new contract every provision of the Taft-Hartley law with respect to welfare funds has been followed to the letter. But, like industry-wide bargaining, welfare funds are a subject about which the committee desires more information. The staff of the committee is collecting and analyzing the many union contracts which include such provisions. If any of you have such contracts, we would be glad to hear from you.

I wish I could conclude by telling you what the study committee has learned to date, but it is too early. We have had staff investigators looking into some disputes, and we are studying labor relations in various plants. We have been watching the administration of the new law by the various departments and agencies affected.

I would like, however, to make a general comment from my own observations. It is that the new law is working. While labor leaders are condemning the Taft-Hartley law to the skies in the press and on the radio, they are bargaining around the conference table with a much more reasonable approach.

There has been considerable talk of bypassing the law of contracts wherein the employer renounces the right to sue the union for strikes and breach of contract. In those cases, however, the employer has received something in return. Take the International Harvester contract, for example. It provides that in case of a wildcat strike, the union will immediately post on the bulletin boards a notice to its members to ignore the picket lines, to not support the strike, and a request that the strikers return to work. Anyone familiar with labor relations must know that such a provision is worth many times more than a right to sue for damages. As a preventive measure against these "quickie" strikes, such provisions should be much more effective in preventing them.

I suppose that many of you are interested in the Baltimore case against the ITU. I am not going to discuss it other than to say that it reminds one of those days following passage of the Wagner Act when the Liberty League and many employers and associations sought to defeat that law in the courts, by open defiance and by political means. I predict that the ITU will be just as unsuccessful as those groups were in seeking a device to escape responsibility under the new law.

Senator TAFT. Going back to the general laws, the international laws which are binding on local unions, Mr. Randolph, turning to article V, foreman, section 1:

In union shops the foreman is the only recognized authority. Assistants may be designated to direct the work, but only the foreman may employ and discharge. In filling vacancies the foreman shall be governed by the provisions of article X, General Laws.

The foreman is a member of the union, is he not?

Mr. RANDOLPH. That is right.

Senator TAFT. Is this not more like the situation and on this subject the employer has no voice whatever? He must agree that the foreman shall be the only recognized authority for firing and employing; is that correct?

Mr. RANDOLPH. Yes, but, as the publisher's representative, of course.

Now, our laws, as is the case with civil laws, most of them were adopted because of some reason for their being adopted, and the idea of people getting their jobs, as we say, "through the pipe," is repugnant to history and the tradition of the International Typographical Union.

In other words, pressure of outside people, advertisers or various others through the office on the hiring of members of the union in a discriminatory manner no doubt brought about the adoption of this law.

Senator TAFT. I do not know about the adoption, but I want to point out that as far as I know there is no such provision in any union that I know of which tells the employer who can fire and who can employ.

Mr. RANDOLPH. Well, Senator Taft, there is no other union just like the International Typographical Union.

Senator TAFT. I agree. That is what I am trying to show.

Mr. RANDOLPH. We have gone through the whole alphabet of collective bargaining, whereas at least 12 out of 15 million organized employees have only gone through the ABC's.

Senator TAFT. As far as you are concerned, you would be almost better off to repeal the Taft-Hartley Act and the Wagner Act and go back to the previous conditions so far as the welfare of your union is concerned.

Mr. RANDOLPH. Senator Taft, if it came to the question of choosing, I would say that rather than tolerate the Taft-Hartley law we would rather have no labor law whatever.

Senator TAFT. I think that is a possibly reasonable solution, although I do not think it is practical, I am afraid.

The CHAIRMAN. I wonder if I may break in there, Senator Taft. I think in relation to the uniqueness in which your foremen work, the right to hire and fire, the right to fire is with the foreman also?

Mr. RANDOLPH. That is right.

The CHAIRMAN. Now, then, who hires the foreman?

Mr. RANDOLPH. The employer.

The CHAIRMAN. The employer has that authority all by himself; is that right?

Mr. RANDOLPH. That is right.

The CHAIRMAN. Does the union try to influence the employer?

Mr. RANDOLPH. Not in the least.

The CHAIRMAN. The foreman has gained his job then both in the union and with his employer because of his ability to be a foreman; is that right?

Mr. RANDOLPH. That is right.

The CHAIRMAN. And there has never been—are there any cases where foremen have been supplanted by unions or where there has been dissatisfaction showing that the dictation is from below, from the employer's standpoint, instead of from above?

Mr. RANDOLPH. In none at all, and the union never takes any part in the matter of selection of the foremen or anything else. The employer hires him and fires him at will. The union never protests a change of foremen.

The CHAIRMAN. How have you brought about that kind of discipline in the management of your labor organization?

Mr. RANDOLPH. The main thing we insist on, of course, is in having the foreman being a member of the union to avoid the natural discrimination that will come from one who does not believe in your union, or your objectives, or your purposes, and the fact that we do require a member to know what he is doing in regard to the hiring or firing or judging of competency.

The CHAIRMAN. Also you want a man to know what he is doing and the work he is doing as a result of the competence of the foreman.

Mr. RANDOLPH. Exactly so.

The CHAIRMAN. And the employer is the only judge of the competence of the foreman?

Mr. RANDOLPH. Well, it has been results that the employer is looking for, and if the employer is not getting results, he can get another foreman, and that is of no concern to the union.

Senator TAFT. The foreman before the Taft-Hartley law had to be a member of the union, did he not?

Mr. RANDOLPH. That is right.

Senator TAFT. A part of the union-shop agreement. If he did have a hand in choosing the foreman, he had to choose a union foreman?

Mr. RANDOLPH. Yes.

Senator TAFT. Do you know of any condition where the man who runs a shop is so tied that he himself cannot fire a man if he thinks that man is incompetent, no matter what his foreman thinks?

Mr. RANDOLPH. The employer has to act through his agent, the foreman, and the foreman is the judge.

Senator TAFT. Because the international law says that that is so; but that is the only reason, is it not?

Mr. RANDOLPH. Well, if you owned a print shop, and you told your foreman, a member of the union, and who by contract you have agreed shall have this authority to do something, such as firing a man, you would be violating your contract as well.

Senator TAFT. I understand. I am not questioning the fact. I am only pointing out that it is an extraordinary thing for a union to assign that and an employer deprive himself of the power to fire a man for incompetence, but he must do it through a foreman who is a union member.

Mr. RANDOLPH. And yet for a hundred years it has been found very successful, and if it had not it would not have lasted 10 years, much less a hundred.

Senator TAFT. Of course, whether a thing is successful or not, it may have to be done.

Section 2 states:

The foreman may discharge (1) for incompetency; (2) for neglect of duty; (3) for violation of office rules which shall be kept conspicuously posted, and which shall in no way abridge the civil rights of employees or their rights under accepted International Typographical Union laws. A discharged member shall have the right to appeal in accordance with the laws of the international union as provided in the contract.

To whom does he appeal under those laws? I have not followed it through.

Mr. RANDOLPH. There are two procedures for the handling of discharge cases: One is where the union, by contract, makes a provision

that discharge cases will be handled by a joint arbitration agency, or if the union does not provide in its contract for such a method, then the matter is handled as it has historically been handled, namely, that the chapel will first pass on the justness or legality of his discharge, after which the foreman may appeal to the union, and the man——

Senator TAFT. Who may appeal to the union?

Mr. RANDOLPH. The foreman.

Senator TAFT. The foreman.

Mr. RANDOLPH. The foreman who discharged him, and the man remains discharged until the union acts.

If the union orders him reinstated the foreman will have to reinstate him, pending an appeal to the executive council or perhaps to the convention. That is the historical method of handling discharges.

Senator TAFT. So, the union determines whether a man has been discharged or not, in the last analysis, whether he can be properly discharged or not?

Mr. RANDOLPH. Except at this time the big majority of the discharge cases are handled through the arbitration procedure set up in the contract.

Senator TAFT. That is a joint proceeding when that is undertaken?

Mr. RANDOLPH. That is right. It is a joint proceeding by arbitrators selected by whatever means they want to select them.

While I am on that point, I want to say that because you say these laws are being put in the record, I want to make it crystal clear that the contracts we have signed and the proposals that we have made since the Taft-Hartley Act has been in existence, provide that these laws shall be applicable only to the extent they are not in violation of the Taft-Hartley law.

Senator TAFT. Mr. Randolph, I am not really questioning, at least at the present time, the validity of the laws. I am only trying to show that the closed shop has given the union a complete power over the matters which are ordinarily, even under collective-bargaining agreements, left to the discretion of the employer, and that this question of collective bargaining has practically disappeared: that there is very little that the employer can bargain about any more.

Mr. RANDOLPH. Oh, yes there is.

Senator TAFT. Because the international union has imposed these rules upon him, and he must accept them or quit.

Mr. RANDOLPH. There is plenty to bargain about, Senator, and the fact that this is a skilled trade, and the fact that the laws are the result of an evolution of bargaining indicates that it has been successful.

It has not been onerous on the employers, and they have been satisfied to operate under them.

As we go along, and associations have secretaries seeking to make a record, and as the whole success of their enterprise depends on how much they get the union to change or give in, we find a lot more trouble than we had when we dealt with the employers directly, especially those who were practical men.

Now, we do not have unreasonable conditions, and our history shows that they have worked well. The degree of protection to our members that we have attained, and the justness of our decisions is a matter historical in itself.

Senator TAFT. Nevertheless, Mr. Randolph, it seems to me that the power, your power may be exercised to the best and the most benevo-



lent dictatorship, but it seems to me to be very clearly a dictatorship. That is the only point I want to make.

Mr. RANDOLPH. No, Senator Taft, the employer himself is a complete dictator unless he, by agreement, lets us share in the idea of who shall be hired and who shall be fired. Now, otherwise he is a complete dictator.

Senator TAFT. But you will not sign a contract with him unless he agrees to these international laws. If he wants a union shop, he cannot possibly—he cannot, and in some places that means perhaps he cannot run at all; he has to agree to this power of the union.

Mr. RANDOLPH. The fact of the matter is that if he does not want to operate under those laws and operate under union conditions as they have been in the past, history shows he has been able to operate nonunion.

We have never been able to stop anybody from operating, so it is not a question of a dictatorship at all. It is a question of the employer himself realizing the superior advantage of having union people, trained people, stable employment, and competent employees working for him rather than what he can hire on the open market, who do not belong to a union, and have not the social outlook that would convince them that they ought to belong to a union in order to further their interests as craftsmen.

Senator TAFT. This rule 7, section 7, article V, is what you just referred to:

A member who believes he has been illegally or unjustly discharged shall have the right to appeal to the subordinate union in the manner provided by the laws of such subordinate union. If the subordinate union orders reinstatement the decision must be complied with until reversed. Either party may appeal to the Executive Council as provided herein.

In all that rule there is no mention of the employer, as far as I can see, having anything to say and you would hardly know, reading these rules, that there was an employer, as I read them.

Mr. RANDOLPH. Well, the employer has his representation through the foreman, and he has complete authority to hire the foreman, and bearing in mind the history of the organization, as I explained it to you this morning, the mere fact of the union's rendering a complete service so that the employer himself has nothing to worry about, as far as his composing room is concerned, is the background of these things.

The union is certainly interested in seeing that the members are not discharged unfairly; that so long as they do their work they are not subject to the whims of the employer through his foreman, who may discriminate on matters of religion, race, creed, politics, or anything else, if he has a free hand.

The union has most distinctly said to that employer, "You do not have a free hand in discharging our members. You shall discharge them for reasonable cause and for no other reason, and if you"—

Senator TAFT. That, Mr. Randolph, I do not object to, but the union reserves then to itself the power of saying whether he is discharged for reasonable cause or not.

The employer has nothing to say about it. As I read the rules, that is what that means.

Mr. RANDOLPH. With all due respect, Senator, the union is in better shape to exercise its judgment than the employer, who knows nothing about the trade.

Senator TAFT. I know that. That is the point I am trying to make. Section 8:

A foreman shall not designate any particular day, nor how many days a member shall work in any one week: *Provided*, That the member must engage a substitute when absent. Any member covering a situation is entitled to and may employ in his stead whenever so disposed any competent member of the International Typographical Union without consultation or approval of the foreman.

Mr. RANDOLPH. That is right.

Senator TAFT. To say nothing of the employer.

Mr. RANDOLPH. Well, I explained that this morning, and that has been the case ever since the union has been in existence, and in typographical societies before, because, as I explained, the union has accepted a responsibility as regards the situation, and in the production of the daily newspaper this is very important.

If a man is not there or if enough men are not there, the paper cannot come out on time. He is obligated to supply the service that is expected of him, and if he does not and is unable to, he is obligated to put a substitute to carry on in his stead; and since time immemorial he has that right when he wants to lay off, and he hires a substitute to do his work, and it is of no consequence to the employer who does the work, whether it is John or Jim, but it does get done, and in the way it should be done, by a union member trained to know what to do.

Senator TAFT. There are three other things here that I suggested that bear out the charge that you have removed a good many things from collective bargaining. You have removed them by making these laws absolute and not open to question.

Section 3 of article 7 states:

Subordinate unions are prohibited from establishing piece or bonus scales.

That is a definite rule that no local union can even bargain with the employer on such a subject.

Mr. RANDOLPH. That is right, and I referred to that this morning as having been adopted after years and years of negotiation and collective bargaining on that point; and in the year 1938 the convention adopted that rule when there were only 13 unions left out of 850 that had piece-work provisions in their scales.

Senator TAFT. Another one is section 8, article 11:

Not less than time and one-half shall be paid for any shift worked in excess of five within a financial week. When a member is required to work on a regular off-day or off-night, not less than the overtime rate shall be paid for such work performed.

I do not question the justice of that rule, but it is one that is definitely removed from the power of a union to bargain collectively, is it not? They could not vary that to any extent.

Mr. RANDOLPH. They can get a better condition than that but no worse, and that is one of the conditions that the members all over the country are governed by in the making of agreements.

In other words, as I explained, the collective bargaining of a century is nailed down, the gains of the century are nailed down in this book of laws, and the unions do not desert that position, and they will not

surrender those gains that have been established generally throughout the country, and nailed down in the book of laws.

Senator TAFT. There is one other I just read, and I will ask you about that, because I do not know—it is article 13, section 1:

A subordinate union cannot alter or amend the standard of type adopted by the International Typographical Union. The following is to be the alphabetical scale for the measurement of type cast on the point system.

and so forth, with a good many technical requirements.

Is that subject also removed from collective bargaining, or can you in special cases do something, some special kind of type?

Mr. RANDOLPH. By a matter of evolution that is almost as dead as the dodo. That type standard was put in there while there was piece-work and where, by the use of a thin face of type, a compositor was compelled to set more units of type than he would on the standard face.

He had to use his hands many more times to produce a thousand ems than he would on a standard face of type.

If he was using a wide face of type, he had less motions of his hands in picking up pieces of type to set a thousand ems upon which he was paid; so that this standard here was one that described what constituted a standard face of type, which was the basis of measurement of type for hand composition.

It has little effect at this time, except as to the possible application to a standard of competency if the employer undertook to substitute a very thin face of type on his linotype machine rather than a standard one, because it would still mean more movements of the fingers on a thin face than it would on a standard face, but it has never been brought up, to my knowledge, in any controversy in the 36 years I have been a member of the International Typographical Union, and in the some 25 years that I have been an official.

Senator TAFT. Now, I suggest, Mr. Randolph, that these laws bear out the statement made by Mr. Henry that these various things are prescribed by general laws of the International Typographical Union; that although all of these matters are of vital importance to them, as employers, none of them are bargainable or even subject to arbitration.

In other words, such union laws have been constantly narrowing the area of bargaining by preventing the employers and locals in their negotiations from arriving at any agreement unless the employer is willing to agree to all the "must" rules of the International.

Do you not think that is a fair statement on Mr. Henry's part?

Mr. RANDOLPH. No; it is not. In the first place, Mr. Henry does not know enough about it, and in the second place, when he says that we are constantly narrowing, that is not true because very few changes are made from year to year in general-law provisions, and then only in cases where we have already made gains and try to get the stragglers in the industry to try to come up, bearing in mind that the greater portion, at least, of the numbers of employers in this industry are not members of associations, and where once an agreement is made with an association or a group of employers, it is up to the union to see that that is enforced in other places, and there has to be a standard, and there has to be a way of approaching a standard.

This International Law Book, and general laws provided in this book having to do with economic matters, are the minimum of union conditions that we insist upon.

Now, an employer who does not want any provisions restricting him, no matter what happens to the union, that type of a man would say: "These restrictions are tremendous; they are too much for anybody; we do not want them."

We say: "If you do not want them, you go ahead and run a non-union shop. There are lots of employers who want to run union shops, and run them under these restrictions."

Senator TAFT. Can any newspaper of any size get enough men to run a nonunion shop?

Mr. RANDOLPH. Oh, yes; quite a few.

Senator TAFT. In small towns, but I mean in any large cities?

Mr. RANDOLPH. There are some metropolitan papers operating nonunion.

Senator TAFT. Are there? Which ones?

Mr. RANDOLPH. Well, the Philadelphia Bulletin; there is one in Hartford, and there is a Los Angeles paper, the Los Angeles Times, and, oh, there are quite a few of them.

Senator TAFT. It can be done. Let me only ask one more question, Mr. Randolph: Supposing that we repealed the union-shop provision. What do you think of giving the power to the Board to regulate the question or at least to pass on the reasonableness of the action relating to the admission of apprentices, admission to unions, and expulsions from unions?

Mr. RANDOLPH. Well, Senator Taft, we are unalterably opposed to the interference by Government in the details of operating, either industry or unions.

We do not think the Government is competent through any bureaucracy you can think of to make even fair regulations along that line.

Senator TAFT. Well, you insist that the only condition under which it should exist is that a union should be able to absolutely govern the admission of people into the union by its rules, and the method of expulsion, without appeal to anybody, Government or employer or anybody else.

Mr. RANDOLPH. Why, of course. It is the only fair way; it is the only successful way.

Senator TAFT. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Randolph, I am going to ask you to stand aside for a minute or two. If Mr. Van Arkel will just move and you stay where you are, then I think Mr. McCabe can come in.

Mr. McCabe is down here for the afternoon, and has been down several times, and we have made arrangements for him to come on the stand now.

Senator SMITH. Mr. Chairman.

The CHAIRMAN. Senator Smith.

Senator SMITH. As I was the one who invited Dr. McCabe from Princeton to come, I want to take this occasion to thank Mr. Randolph for permitting Dr. McCabe to give his testimony. It will not take very long, but I want to get it into the record, and I want to say for the record that I have known Dr. David A. McCabe in Princeton for many years. I was a colleague of his in Princeton for some time, and he has made very special studies, as he will state himself, with respect to management-labor relations, and he looks at this matter entirely objectively. In fact, I do not know how he is going to testify, but I

want the benefit of his years of study, and the confidence I have in him in giving us an objective approach to some of these controversial questions.

The CHAIRMAN. Mr. McCabe, for the record, will you state your name, your position, and if you are representing anything, what you represent, please.

**STATEMENT OF DAVID A. McCABE, DEPARTMENT OF ECONOMICS  
AND SOCIAL INSTITUTIONS, PRINCETON UNIVERSITY, PRINCETON,  
N. J.**

Mr. McCABE. Thank you, Mr. Chairman.

My name is David Aloysius McCabe. I am a professor of economics at Princeton University. I am an unattached entry. I represent no organization or interests. I speak only for myself, and I am here simply because my old friend and former colleague, Senator Smith, has an exaggerated idea of the importance of what I have to say.

The CHAIRMAN. That is good professorial humility.

Mr. McCABE. I have a prepared statement here, and in my prepared statement I have concentrated on two problems: One is the problem of reconciling individual rights with the collective right to make membership in the union, that is, the collective-bargaining representative, a condition of employment.

The other problem is the problem of so-called national emergency strikes. I have selected these two topics because they are two of the three topics on which I presented a statement to this committee 2 years ago.

The other topic is, fortunately, not an issue, that is, industry-wide collective bargaining.

First, I would say that I accept the permissibility of compulsory membership in the union that does the collective bargaining for the workers.

I would not make a distinction in this respect between the union shop and the so-called closed shop as such. I would remove the 30-day requirement.

I think that requirement is very difficult to operate under in some industries, and I also believe that there is not much difference in principle between requiring the man to become a member 30 days after he is hired, and require him to become a member 30 minutes before he is hired, providing that membership is open to the applicant equally in the second case as in the first; that is, that the man would be admitted to the union if he is a qualified applicant. He would be admitted on the same terms and conditions as those who preceded him, and without excessive fees.

I do not intend by this to prohibit unions in the trades in which the short-term job is characteristic, as in the building trades and the longshore trades, from establishing reasonable rules of preference within the union membership.

I think longshoremen, for example, should be permitted to have a classification of membership in the interests of decasualization.

The second condition that I would favor is that there be no arbitrary expulsion of members; that is, that there be something analogous to due process of law.

I would, however, enlarge the permissible causes of expulsion from membership. I would permit expulsion for good cause, but subject to appeal to the National Labor Relations Board on the justifiability of the cause and the fairness of the proceedings; that I think would insure due process.

Senator SMITH. Professor McCabe, at that point, would you legislate these principles, or would you leave those questions to be determined by the union rules, as Mr. Randolph has been testifying here? They have had union rules in the ITU for a hundred years, and have developed them. That is the thing that troubles me in this, whether we have to legislate in this field or whether we can leave this thing open.

Mr. McCABE. Senator, I do not like to differ from Mr. Randolph, who is president of the oldest national union in the United States, and for which I have great respect; but I would put them into the law. I believe that the situation is different today from what it was before the Wagner Act was passed.

The Wagner Act took unions out of the category of private clubs in which the Supreme Court found them in *Adair v. United States*, and in *Coppage v. Kansas*.

Senator SMITH. What was the date of those cases?

Mr. McCABE. The date? I should say that the *Adair v. United States* was about 1908, and *Coppage v. Kansas* was about 1915.

Senator SMITH. Yes; both prior to the Wagner Act.

Mr. McCABE. Oh, yes.

Senator SMITH. That is what I wanted to bring out.

Mr. McCABE. Yes; long prior to the Wagner Act.

I would go further, Senator, and make this requirement of open membership and due process of law on the withdrawal of membership a condition of acting as the bargaining representative.

I would not confine it to cases where you have a union-shop or closed-shop contract which would make membership eventually, at least, a condition of the job.

The Wagner Act made the union designated by the majority of the workers within the unit the representative of all the workers in the unit for purposes of collective bargaining. That logically implies, I think, that every worker included in the bargaining unit who is employed within that unit has a right to membership in the union which represents him, unless the membership is denied or withdrawn for good cause, subject to appeal to the National Labor Relations Board, as I have indicated.

Finally, I would recommend that the National Labor Relations Board be authorized to investigate a charge from any substantial number of union members that the union officers are not representative of the majority of the membership.

I am now speaking of a challenge as to the majority status of the union. I assume that the union is the majority representative; but it may be that there is a considerable body of workers within the union who think that the officers do not represent the majority of the members. I am not one of those, I never have been, who think or at least say that our American unions are rampant with dictatorship and personal proprietaryships.

I think that, on the whole, the majority of union members get the kind of union government and the kind of union policies that they

want. But there are, and have been, charges that the officers do not represent the will of the members.

I think that there ought to be an orderly procedure by which those charges can be brought to the bar and disposed of.

The present act does not, so far as I can discover, offer the complainants such a procedure. They must resort to the uncertainties.

Senator SMITH. By "present act" do you mean the administration bill or the Thomas bill, or the Wagner Act?

Mr. McCABE. I mean the act as it now stands, Senator, the National Labor Relations Act, originally the National Labor Relations Act, as amended, as it now stands.

Senator SMITH. That is 1947, the so-called Taft-Hartley law?

Mr. McCABE. 1947.

Senator SMITH. The so-called Taft-Hartley Act.

Mr. McCABE. Yes. I was about to say that I do not think that workers who have a prima facie case should be obliged to content themselves with the uncertainties and the expense of an equity court procedure with the aroma of scandal of the whole union community. I think access should be to the Board.

The present act, like the original Wagner Act, makes no provision for this.

On the contrary, the present act seems to suggest to the workers that their only recourse is to get rid of their union through a process of desertion. The workers may not want to get rid of the union. They may want to get rid of the officers, and be unable to do so. I think we should give them that kind of procedure.

Let me add, please, that I am not trying to weaken unions. I have been a student of unionism and labor problems for more than 40 years, and I have always been in favor of unions, and in favor of collective bargaining.

I make this suggestion because I think in the long run it would strengthen the position of the unions in the community.

I want to insure not only that unions are democratic; I want, so far as possible, to insure that they will be recognized as instruments for industrial democracy, and I do not think they can realize their full possibilities in that respect unless there is some sort of procedure which will make it clear that they are democratic, both in the sense of protecting the rights of individual workers, and in the sense of affording their members representative government and participation in all important decisions.

In other words, if I may introduce another constitutional analogy, I would have the National Labor Relations Act guarantee to every union that acts as a representative in collective bargaining a democratic form of government.

That is all I have to say, Senator, under the first heading. Shall I go on?

Senator SMITH. I would like to have you go on with all your testimony, I think.

Senator Thomas, I am not taking the lead away from you. You should direct this.

The CHAIRMAN. That is fine.

Senator SMITH. It just happens that he is my friend, and I just happened to ask some questions.

The CHAIRMAN. As chairman, any time anybody says "Go on," I am always in favor of that. [Laughter.]

Mr. McCABE. I come now to the question of national emergency strikes, and I would like to talk about that a little bit.

The CHAIRMAN. Mr. McCabe, you may go on.

Mr. McCABE. I see that my student is not here. [Laughter.]

The CHAIRMAN. He will come.

Mr. McCABE. Shall I wait or shall I go on?

The CHAIRMAN. I think you had better go on for the sake of time.

Mr. McCABE. All right, Mr. Chairman.

I started to speak of the problem of so-called national emergency strikes. First, I want to point out that I make a distinction between a strike that would directly and immediately imperil the national health or safety and other strikes.

There are very few strikes on a national scale that imperil health and safety, that is, nationally. Most of the strikes that imperil health or safety are local strikes; they are on a local or restricted regional basis.

For the strikes that do immediately and directly imperil the national health and safety, I think we have come to the point where we should admit that we are not going to allow them. I do not believe in going on pretending that there is no limit on the right of workers to strike, when we expect not to permit a strike to go on that, in the real meaning, directly imperils the national health or safety.

I would not be satisfied with a mere prohibition. I believe that with the order to call off the strike there should go the appointment of a tribunal to pass on the merits of the demands of the strikers and to fix terms binding on the parties for a period of, let us say, a year.

A further condition that I recommend is that the prices charged by the industry and the allocation of the products or services of the industry should be brought under Government control for the period of strike prohibition. The dependence on the national health and safety on the continuation of that strike makes it, temporarily, at least, a public utility, and it should be subject to regulation as a public utility, as well as in the matter of striking.

I do not believe in prohibiting a strike without at the same time giving the workers an alternative method by which they can be assured that their demands will be heard and passed on.

I made a proposal, this same proposal, 2 years ago. I recall saying at that time that I was convinced that if we should come face to face with a direct peril of this kind, that the strike would be prohibited. I was in favor of stating that in advance and providing the authority in advance. I say substantially that in my prepared statement.

Let me explain that in this prepared statement, it was written early last week, before the letter of the Attorney General was made public. I do not mean to imply in this statement, in my prepared statement, that the President has inherent powers to call off a strike of this kind or to prohibit it in advance.

I do not wish to become enmeshed in that debate.

Senator TAFT. Senator Donnell and Senator Morse are not here, so it is all right for you to express your opinion. [Laughter.]

Mr. McCABE. All right, Senator.

Senator TAFT. It is safe for you to express your opinion.



Mr. McCABE. All right, Senator. I was going to say, for the preservation of an old story, that so far as I am concerned that is a private fight. The events of the past 2 years have strengthened my conviction that we have arrived at compulsory arbitration in fact in the face of a direct and immediate peril of this kind.

I am even more convinced that a provision should be made in advance for meeting the situation. I would state in advance in the statute who may do what. I do not like injunctions against strikes. I lived through the bad old days, and I have inherited that prejudice; but I do not think it makes an injunction smell any sweeter or any easier to take if it is pulled out of the hat. I realize that this procedure that I am recommending again is very drastic.

Just because it is very drastic, I would confine it closely to those strikes that immediately and directly imperil the national health or safety.

Senator PEPPER. Mr. Chairman, I am sorry to have missed the first part of Mr. McCabe's statement. I wonder if he might tell me in a few words his principal position.

Mr. McCABE. Senator, my plan is to authorize the President to order that a strike which imperils national health or safety, which has not yet begun or which has been going on long enough to arrive at that acute stage shall be called off.

Along with that, at the same time, he would appoint what I call the tribunal, a board. This board would have authority to hear the dispute and fix terms binding upon both parties for a year, let us say, subject always to the right of the parties to bargain themselves out from under by direct agreement.

The third condition is that when the President orders a strike called off, the Government takes control of the prices to be charged and of the allocation of the products or services. I would prefer that to the subterfuge of seizure.

Senator PEPPER. Would the Government during the time of operation have also the authority to fix wages and working conditions?

Mr. McCABE. The board would fix the terms and conditions of employment. It would be an arbitration board. I prefer that to having some official of the Government put in the invidious position of fixing the terms.

Senator PEPPER. Thank you.

Senator SMITH. Would that be retroactive to the beginning of the dispute?

Mr. McCABE. It would be retroactive to the time that the order to call off the strike is sent out.

Senator SMITH. That is what I mean.

Senator TAFT. Did I understand you would then permit any means of injunction or anything else to carry out that order?

Mr. McCABE. I would assume, Senator, that if the order were not obeyed, that the strike could be enjoined, but I would not use the injunction as a stay. I would use it as a means of enforcement if I would have to and I would hope I wouldn't have to.

Senator PEPPER. That would amount in substance to compulsory arbitration of disputes that have a great public significance.

Mr. McCABE. Yes. Let me add, Senator, that my conviction is that we have already arrived at that point in fact.

I was emphasizing that I would not allow this procedure to be invoked unless these conditions were present: That the strike directly and immediately imperils national health or safety. I would not allow it to be invoked simply because there was grave economic dislocation and widespread employment.

I am afraid of such wide expressions as "injure the public welfare" or "crippling strikes" or "strikes in key industries." We have an economic system that assumes that the terms of employment are to be fixed by voluntary agreement, as well as other contractual terms. That in turn implies the right to disagree, the right to refrain from making a contract in order to force better terms, whether that refraining is individual or collectively.

That is the method by which we decide how the proceeds of our common efforts are to be divided up.

Senator PEPPER. Then if the members of the ITU did not desire or did not see fit to enter into a long-term contract with their employers, do you think they had a perfect right to refrain from entering into such a contract?

Mr. McCABE. Yes; I would say so. I am not passing judgment on whether they should be equally bound with the employers not to refuse collective bargaining.

Senator PEPPER. Well, does the obligation to bargain collectively impose upon either side the duty to enter into a written contract for any period of time?

Mr. McCABE. Not unless they come to an agreement on terms.

Senator PEPPER. That is right.

Mr. McCABE. I have held that all along.

Senator PEPPER. Either side has the right to disagree.

Mr. McCABE. Either side has the right to disagree.

Senator PEPPER. And if either side prefers to change a contract which previously existed it has a right to take that position.

Mr. McCABE. It has the right to take that position.

Senator PEPPER. I don't want to intervene here on the Senator's interrogation, and I won't go further.

Senator SMITH. I am not interrogating the witness. The witness is making his statement.

Senator PEPPER. I would like to refer to this one thing.

Senator SMITH. I suggest this, though: I assume the complete statement Mr. McCabe has presented should go into the record, although he is just commenting on it. I assume all these statements go into the record in full; is that correct?

Senator PEPPER. Oh, yes. I bring that up because I was quite much interested in Judge Swygert's decree in the ITU case, which if it is correctly before me says one thing that the international organization, naming the officers—President Randolph and others, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them—

be and they hereby are restrained and enjoined, pending the final adjudication of this matter in case No. 9-CB-5 by the National Labor Relations Board, from—

A. In any manner promulgating, disseminating, pursuing, observing, or in anywise giving effect to, or ordering, instructing, requiring, recommending, inducing, encouraging, or in anywise causing subordinate local unions and members of recouraging, or in anywise causing subordinate local unions and members of respondent International Typographical Union, or any of them, to promulgate,

disseminate, pursue, observe, or in anywise give effect to, any policy, practice, or course of conduct which in any manner requires, induces, or in anywise causes, respondent International Typographical Union or its subordinate local unions, or any of them (a) to refuse to bargain or refrain from bargaining collectively in good faith with employers with respect to wages, hours, and other terms and conditions of employment or the negotiation of an agreement, or any question arising thereunder. \* \* \*

That relates to the obligation contained in the law that they must bargain in good faith. To continue:

(b) to refuse to execute or refrain from executing, upon request, a written contract incorporating any agreement reached \* \* \*.

Well, I can understand that. If they reach an agreement it might well be put in writing. Next:

(c) to refuse to bargain or refrain from bargaining collectively in good faith with employers for collective-bargaining contracts for a definite term in accordance with the practice and custom established by respondent International Typographical Union and its subordinate local unions in their bargaining with representatives of the newspaper industry over the course of years.

I was rather surprised to see a judge enjoining these people from refusing to bargain for a definite term, right in the face of the act, with the provision that nobody is required to work unless one had given consent. I thought if one gave consent, he had the right to lay down conditions of such consent. It gets down to the conditions this time, saying:

B. In any manner promulgating, disseminating, pursuing, observing, or in anywise giving effect to or ordering, instructing, requiring, recommending, inducing, encouraging, or in anywise causing subordinate local unions and members of respondent International Typographical Union, or any of them, to promulgate, disseminate, pursue, observe, or in anywise give effect to, any policy, practice, or course of conduct, including without limitation (a) conditions of employment, (b) Form P-6-a contracts or modifications thereof. \* \* \*

It looks like it didn't make any difference how they modified Form P-6-a, they still couldn't make it the basis of negotiations since it says, "any modifications thereof." Even if they struck out everything after the enacting clause and rewrote it. To continue:

(c) provisions for cancellation of an entire agreement upon 60 days' notice, (d) laws, rules and decisions of respondent International Typographical Union—

And so on, relative to employment and the like.

I was just wondering if it does not appear that the judge was practically threatening these people with punishment if they changed their minds about the kind of contract that they wanted to have, or changed their course, or if they conditioned the giving of their assent to work for their employers.

Mr. McCABE. The first comment I would make, Senator, is I don't want to be adjudged in contempt of court.

Senator PEPPER. I don't think you will be adjudged in contempt of court. So far as I know, the Congress of the United States has got a right to say the thing adjudged is wrong. I hope they have that right. If they don't have that right, some of us in Congress would go to jail because we surely would say it.

Mr. McCABE. The second comment I would make is that I can see that the requirement not to refuse to bargain collectively implies that you should be willing to make an agreement, a contract, upon agreed upon terms to last for some period, so that they are not subject to cancellation without notice.

Senator PEPPER. That says for a definite term in accordance with the practice and custom, and so forth.

Mr. McCABE. I would be loath to go that far myself if I were interpreting the obligation. I think that the length of the term of the contract is one of the things that has often been a critical issue in collective-bargaining negotiations.

Senator PEPPER. I won't go into a protracted inquiry right now, since I want to ask you some questions later, but while we are on it I call your attention to the language in section 502 of the Taft-Hartley Act.

Senator NEELY. Before you do that, Senator Pepper, may I ask a question on the subject of the injunction?

Senator PEPPER. Yes.

Senator NEELY. Every practicing attorney knows injunctions as a rule are prepared by a lawyer and not by the court. The court enters or refuses to enter them, depending on whether they express the opinion of the court.

I want to inquire whether there is anything on the face of this injunction other than similarity of the language to what we have been hearing to date which would indicate whether Mr. Denham wrote this injunction about which we are inquiring?

Senator PEPPER. I think Mr. Denham might well have written it.

Senator NEELY. I am asking. Is there anything to indicate other than the language that he did write it?

Senator PEPPER. I think he was the one who initiated the action. I have a newspaper clipping here.

Mr. KAISER. The actual terms of the injunction adopted by Judge Swygert were prepared by the general counsel of the National Labor Relations Board.

Senator NEELY. That means Mr. Denham?

Mr. KAISER. Yes, sir.

Senator NEELY. I thought it sounded like his language.

Senator PEPPER. I have a newspaper column from the Associated Press in which it said that Mr. Denham was contemplating acting in this case, and I am quoting from the newspaper. This is the Associated Press dispatch appearing in the Evening Star of Washington, dated December 16, and I suppose it is 1948. It says:

Mr. Denham's complaint against the union is based on charges of the American Newspaper Publishers Association.

But what I started out to do was call your attention to section 502 of the Taft-Hartley Act [reading]:

Nothing in this act shall be construed to require an individual employee to render labor or service without his consent.

I suppose that would cover ITU workers.

Mr. McCABE. I accept that; yes.

Senator PEPPER (continues reading):

Nor shall anything in this act be construed to make the quitting of his labor by an individual employee an illegal act.

Mr. McCABE. I agree.

Senator PEPPER (continues reading):

Nor shall any court issue any process to compel performance by an individual employee of such labor or service without his consent.

Mr. McCABE. That is right. I agree with that.

Senator PEPPER (continuing) :

Nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

Do you generally agree with that?

Mr. McCABE. I would agree with that if it can be established that that is why they quit.

Senator PEPPER. What I couldn't understand from what I have heard so far about this ITU dispute was why these workers, if they were covered by this injunction, couldn't condition the continuation of their labor any way they chose to do so. If that language means anything, I don't know of any reason why it wouldn't allow a worker in the giving of his consent, which is essential to requiring him to work, to impose any conditions he wishes upon the giving of his consent.

Mr. McCABE. Senator, I think you have to decide there whether the action is his individual action or whether it is collective action. If it is the action of the organization, that alters the situation probably.

Senator PEPPER. Well, I assume that all the people who work would have to give their consent, so it would amount to the same thing.

Mr. McCABE. If they individually quit without any agreement among themselves, you would then have to decide whether that was a concerted quitting or just the result of the fact that they had been trained so long under this system that their individual consciences revolted, and they refused to work individually.

Senator PEPPER. However, section 502 did not contain the limitation that "this shall be true except when workers act in concert," did it?

Mr. McCABE. I didn't get that, sir.

Senator PEPPER. I say the saying provision that I read here does not contain any such proviso or limitation to the effect that "the foregoing shall not be true when the workers act in concert."

Mr. McCABE. I don't find it in the language as you read it, but there is a well-known distinction between individual quittings and quitting in concert.

Senator PEPPER. Well, would you say that a worker could impose as a condition of continuing his work the fact that the employer did not employ anybody who did not share his views about what was for the best interests of the workers?

That is, he would say, "I will not work with people, for example, who do not subscribe to a code of employment such as is contained in the laws of the ITU."

In other words, does the right not to work carry with it the right not to work with certain people that you don't like, people whose views you don't think are consistent with the welfare of workers generally and your own welfare particularly?

Mr. McCABE. I would say that the individual has a right to quit as an individual, but the moment that individuals act in concert or in combination that alters the situation.

Senator PEPPER. You go ahead with your direct testimony, and we will get back to these matters later.

Mr. McCABE. I have finished my preliminary statement, my original statement, except that I would like to add that we can, under our

economic system, afford an occasional compulsory fixing of terms of employment in public utilities so long as the rest of industry is free to arrive at terms by agreement, so that we have standards freely arrived at in most industry to serve as guides when we come to fixing terms for public utilities if we have to.

I repeat that I would not like to see the compulsory fixing of terms extended to our basic industries. In recent years we have looked to free collective bargaining in those industries, especially in those that have made technological advances, to raise the standards of the workers. If we should substitute the compulsory fixing of terms for free collective bargaining on terms in our basic industries, we would have drastically changed our economic system.

I hope we are not going to do that. I think that labor and industry must help. I have for years hoped that industry generally and labor generally would get together and set up some sort of joint procedure by which they can bring pressure on the fight-to-a-finish boys on their respective sides in order to save the system if for no higher reason.

Senator PEPPER. Senator Thomas asked me to act as chairman in his absence. I want to ask some questions myself, but I will defer to Senator Neely first. Would you care to ask anything?

Senator NEELY. No.

Senator PEPPER. Senator Taft?

Senator TAFT. I have no questions.

Senator PEPPER. Mr. McCabe, if I understood your statement, which I read, but I didn't get to hear the first part, you do not favor the closed-shop provision of the Taft-Hartley law; is that right?

Mr. McCABE. I do not favor the 30-day requirement.

Senator PEPPER. Do you favor the Taft-Hartley Act provisions relative to the election before they can put a union shop into effect?

Mr. McCABE. No, Senator. I think it is a fifth wheel. It looks very good; it looks like insuring that the majority of all those in the unit are in favor of it, but I rather question that as a general rule.

My impression is that, where a union has been bargaining collectively for the workers, the result in an election of this kind is almost always in favor of compulsory membership.

Senator PEPPER. Mr. McCabe, going back to the so-called closed-shop question, I noticed in the prepared statement of Mr. Randolph something which I think is seldom given as the basic underlying reason for the so-called closed shop; namely, as I understand it, he was suggesting that workers simply refuse to work along with other workers who don't subscribe to the same general principles and practices for employees to which they subscribe.

In other words, they simply assert their right not to work with people whose attitudes and whose conduct are inimical to what they believe to be the best interests of themselves and their fellow workers.

Is that the basic philosophy that underlies the so-called closed shop?

Mr. McCABE. I think that has had a great deal to do with it, Senator. The question is the right of the individual whom the employer would otherwise hire to work, on the one hand, versus the right of the rest of them to refuse to work with him. That has been fought out for years.

Senator PEPPER. If you don't have the so-called union shop as described in the Taft-Hartley law, so that the worker has to become a member of the union and presumably subscribe to its principles

within 30 days after his employment, then the workers who are members of unions and believe in unions would have to work alongside other employees who haven't a belief in unions, evidently, and don't subscribe to union principles and practices; is that right?

Mr. McCABE. Yes.

Senator PEPPER. And such men might easily be a threat to the protection of the standards and the principles and practices in which the members of the union believe very conscientiously?

Mr. McCABE. Yes; and in the days when the employer was free to discriminate in favor of them and against the others I think they often were a threat.

Senator PEPPER. That puts a little different emphasis on the matter from the one you ordinarily hear. Many times people who don't believe at all in big corporations, who are not individual workers denied a chance to get a job, but corporations that are just not friendly to unions. They make long and often very eloquent speeches about the right of the individual to work and about the wrong that is being done the individual who is excluded, but they seldom emphasize this matter that you and Mr. Randolph have mentioned, the right of the workers who are entering into a contract with their employer not to work with people who don't subscribe to principles and practices to which they subscribe.

When such a group enters into a so-called closed-shop agreement with an employer, it simply is an agreement between the two as to the kind of people generally to be employed by the employer and with whom the so-called union members are to work while they are employed in that plant. That is true, isn't it?

Mr. McCABE. Yes; I think there is a basic issue here of the right of the workers to strengthen and preserve their organization by requiring membership in it as a condition of employment. You have to compromise somewhere between the individual and the organization, and it seems to me that a fair compromise is at that point where the individual, if he is qualified, will be permitted to join but he can't work unless he does join.

Senator PEPPER. Now, I am glad you suggested what I was coming to next, namely, that this issue, like most others, involves the balance of interests. Some people see the matter through the eyes of the individual imaginary worker, who comes and applies for the job, who is not a member of the union who is denied a chance to work because the contract between the union and the management says that a man is not to be employed unless he is a member of the union. That is supposed to be the conflict which you hear. They think of the wrong that is done in that way to that individual citizen; and the people who put the greater emphasis upon laissez-faire individualism think that this is contrary to every concept they believe in in their philosophy, and, especially if the applicant is a veteran, they bring the element of patriotism and ingratitude into it, saying that you are denying a man the right to work who fought for his country.

On its face, it is a heinous thing to do. But if you raise your eyes to the horizon and you begin to see that maybe another issue involved is a technique for the preservation of standards for working men, with economic democracy for working people and better standards of living, for which the veterans also fought—that all those things,

the whole integrity of the union movement and all it has meant and does mean and will mean also is involved, so that, like most things, it may be a matter about which honest and good men may have differences as to whether emphasis may be placed on that imaginary individual who is wronged or whether emphasis shouldn't be placed on the general group welfare from which this individual will profit when he does get a job somewhere, by wage standards and working conditions being held to these levels, that is a possible point of view; isn't it?

Mr. McCABE. It is.

Senator PEPPER. So that a man who believes in a closed shop may not necessarily be subject to denunciation as being some sort of tyrant or believing in any sort of totalitarianism which neglects to appreciate individual liberties and that sort of thing. It may be a just appraisal in his mind of the balance of interests involved in the issue. Would you say that is possible?

Mr. McCABE. Yes.

Senator PEPPER. I believe you have indicated that you do not favor the injunction provisions for so-called national emergencies in the Taft-Hartley law. I deduced that from what you said.

Mr. McCABE. That is true. I never favored issuing the injunction for a protracted period after there had been opportunity for negotiation without providing any affirmative method of passing on the merits of the dispute.

Senator PEPPER. The Taft-Hartley Act doesn't lay down any criteria for the settlement of the dispute during the 80-day period; does it?

Mr. McCABE. I don't find any there. There is an urge toward mediation and direct negotiation.

Senator PEPPER. All those things apply to the period of the dispute prior to the injunction just as well as during the injunction, do they not?

Mr. McCABE. Yes.

Senator PEPPER. And the Taft-Hartley Act doesn't apply any machinery at all after the lapse of the 80 days and the dissolution of the injunction to settle the dispute or continue production; does it?

Mr. McCABE. No. As I recall it, it leaves it up to the President.

Senator PEPPER. Exactly. Now, Mr. McCabe, you may have been asked this question, but, as an expert, being familiar with the Taft-Hartley law and what it provides on the subject of national emergencies, and being no doubt familiar with the Thomas bill and the machinery it provides for dealing with similar situations, do you think it is a fair comment to say that the Taft-Hartley Act affords a protection and shield for the security of the country, upon which the country may depend, whereas the Thomas bill robs the country of any such protection and security and leaves it exposed to grievous ruin and harm because of any work stoppage?

Mr. McCABE. Senator, I don't wish to pass judgment on these two, the act and the bill, by those names, but I find in the present legislation no final protection against the strike that has been found to threaten the national health or safety. In fact, we had a strike that went on, I believe, for more than 90 days after the expiration of the 80-day stay.



Senator PEPPER. You said "present law." Did you mean the Taft-Hartley Act?

Mr. McCABE. Yes; the so-called Taft-Hartley Act. I have believed for many years in the efficacy of the appointment of an emergency board with the power to make recommendations.

Senator PEPPER. As generally embodied in the Thomas bill?

Mr. McCABE. Yes. I had written in favor of that, but I have reluctantly come to believe in the last few years that that isn't going to be enough. The attempt in 1945 to get industry and labor to accept that kind of procedure was a failure. The procedure has failed, as you know, in the industry which was its greatest exemplar, the railroad industry, in which it was efficacious for so many years, carrying us through depression and up out of it on the other side without major disturbance of any kind.

But I think that the situation has changed, that attitudes have changed. I hope that what has happened in the railroad industry in the last few years will result in the system working all right in that industry, but I am not at all sure that it will prove to be enough, generally speaking. However, I would, if I had to choose, start with the emergency board rather than with the injunction.

Senator PEPPER. I am glad to hear you say that. I have two other questions. One is: I did deduce from what you said that you certainly believe it is only fair to provide that, if you are going to impose coercion on one side, assuming you could do so effectively, to keep them at work, someone should have authority to grant whatever demands they had made that were fair and proper, not to make them work under conditions they had regarded as onerous, in short, have the other side meet the workers part way.

Mr. McCABE. Certainly.

Senator PEPPER. And there would be a lot of people who would be very much shocked if, in order to preserve continuity of production and to keep workers from striking, we were to propose and write into a law the provision that the President in such case would have authority to tell management what wages to pay where the wage dispute was in issue and what working conditions to provide in case that subject was in issue.

They would think that was certainly interfering with the capitalistic system; wouldn't they?

Mr. McCABE. Well, some of them may say that. I would prefer, Senator, that the President be not the one to fix the terms. I would prefer to have the President appoint a board. I believe that there has been too much of the term fixing dumped into the lap of the President.

Senator PEPPER. It may well be so. Now the last question: Is it not a fact that the Wagner Act was a relatively simple act which contained very few provisions, which largely was designed to encourage and protect workers in organizing themselves into unions, in selecting their bargaining representatives, and in assuring to them that management would be obligated to bargain with them collectively and set up the National Labor Relations Board generally to carry out the act? That was the basic principle of the Wagner Act; was it not?

Mr. McCABE. Yes. We both recall that the Wagner Act in all its essentials was passed by the Senate as substantially a clarification and

enforcement measure for section 7 (a) of the National Industrial Recovery Act.

Senator PEPPER. The Wagner Act, do you recall that it provided any obligatory requirement on the employer except to bargain collectively with the workers' chosen representatives?

Mr. McCABE. And that was the only direct obligation and that was praised negatively. It was made an unfair labor practice for them to refuse to bargain collectively.

Senator PEPPER. Other requirements imposed on the employer were negative—that is, "Don't interfere with the workers in holding their elections, in the selection of their bargaining agents, and don't discriminate against the worker because he happens to belong to a union."

Mr. McCABE. Yes. Of course, Senator, the Board in taking remedial action could impose an affirmative obligation upon the employer to restore a man to employment and make whole his wages.

Senator PEPPER. If he had violated that negative duty that was imposed upon him.

Mr. McCABE. Yes.

Senator PEPPER. It didn't, with respect to the employee, impose any obligation at all, I don't believe.

Mr. McCABE. I don't recall any.

Senator PEPPER. The whole basic purpose of the Wagner law was simply in furtherance of a public policy that conceived that men could better themselves by acting collectively in dealing with their employers to protect them in the enjoyment of that right. That was the basic theory of it, wasn't it?

Mr. McCABE. It was.

Senator PEPPER. And it didn't regulate the unions and it didn't regulate management, did it?

Mr. McCABE. It regulated management to the extent that it deprived management of the right it had before to discriminate.

Senator PEPPER. It didn't regulate the internal affairs of management.

Mr. McCABE. No; because it was concerned only with the relations with their labor.

Senator PEPPER. It didn't say anything at all about the protection of the stockholders' rights, about political contributions for corporations, or how their officers should be elected; it didn't touch the corporate structure and its operation in this country except in one little narrow field in its direct relationship with its employees. It defined such limited scope of duty, and the Wagner Act didn't have anything whatever to say about the internal operations of the union, either, did it?

Mr. McCABE. No.

Senator PEPPER. It didn't make them file any accounts, expense accounts, give a whole lot of other information, define employees' relations with one another; it just didn't go into that field on the Federal level, did it?

Mr. McCABE. It did not.

Senator PEPPER. Is it fair to say that the Taft-Hartley Act went so far beyond that act as to present in substance a different theory of approach to this problem, that it did so far enter into the relationships of one employee to another, one employee to his union, and the

duties that the union had to observe, and so on, as to represent, in degree, if not in principle, a different approach to the problem covered by the Wagner Act?

Mr. McCABE. Well, when we confine ourselves to title 1 of the Taft-Hartley Act, I think that that piece of legislation was drafted on the assumption that it was no longer necessary to foster the organization of unions, that there were so many of them and some of them were so strong and they covered such a wide field of employment that it was necessary to regulate to some extent their relations with individual employees.

Senator PEPPER. That was a new departure by the Congress in the field of labor law, was it not?

Mr. McCABE. It was, on the Federal level.

Senator PEPPER. So you can understand the attitude of some of us who keep constantly talking about repealing Taft-Hartley and not being willing to let the issue in the debate be, "What is wrong with this individual provision?"; "Why not keep this individual section?"; "Why not keep that individual section?"; "Change it a little bit." It is a difference in basic philosophy as to whether the Federal Government ought to go into the minutia of the regulation of the internal structure and functions of corporations and their relations to other than their employees or whether the Federal Government should go into the internal operations and control of labor unions on a Federal level, rather than confining Federal legislation to the subject of relationship of employer and employee and trying to preserve as nearly as possible collective bargaining and collective functions of one with respect to the other.

Senator SMITH. Will the Senator yield for an observation?

Senator PEPPER. Just a moment. Let Mr. McCabe make any comment he wishes to make on that.

Mr. McCABE. I would make the comment that the Wagner Act did bring the Federal Government into the field of what we may call labor representation for purpose of collective bargaining, and it did state that the representatives chosen by the majority of the workers in the unit appropriate for collective-bargaining purposes shall be the exclusive representative of all the workers included within that unit.

It also vested the National Labor Relations Board with authority to say what the appropriate unit should be, so that it did bring the Federal Government into the field of representation, and it did say in 8 (a) (3) that the employer shall not discriminate in the matter of union membership or the lack of it as a condition of employment, with this proviso: That where the union was the representative of the workers within the meaning of 9 (a) and got that happy position without an assist from the employers, then the employer should not be forbidden by this particular act to make the contract with that union requiring membership therein as a condition of employment.

So that the Wagner Act did enter this field of the union-security business and it also entered the field of representation in what after all was a regulatory way. It allowed the Board to say what should be the bargaining unit and it allowed the Board to determine what organization, if any, had the majority within that unit.

Senator PEPPER. That was just a detailed application of the principle that they had the right to select their representative. Of course,

there would be disputes and there would be variables that would be presented, but the principle was simple: that they had a right to select their representative.

The size of the unit that you would have to do that would have to be worked out, but they didn't go into the questions of the regulation of the relationships of the workers to one another and to the control of the union in laying down unfair labor practices that had to be applied to the union and subjecting the unions to suits and to injunctions and that sort of thing, did they?

Mr. McCABE. They did not because the Wagner Act, Senator, as you remember probably better than I do, was passed as a result, first of all, of the failure of many employers to observe the provisions of 7 (a), and then its ultimate passage was due to the fact that the whole National Industrial Recovery Act had been held unconstitutional, so that when it was finally passed, it stood alone from the setting of the NIRA as a protective measure for the workers, and it said nothing about employers except to impose obligations upon them.

Senator PEPPER. It may be a little exaggerated, but it occurs to me that the Taft-Hartley law in respect to the Wagner Act is just about like the Wagner Act being the snout and the Taft-Hartley Act added the elephant.

Mr. McCABE. The Taft-Hartley Act did go beyond the subject matter of the Wagner Act in some respects.

Senator PEPPER. In vast respects; didn't it?

Mr. McCABE. Especially in the matter of secondary boycotts.

Senator TAFT. And national emergency strikes, both of which the President thinks should be dealt with by law; is that right?

Mr. McCABE. Well, Senator, I was speaking of title I only when I said that.

Senator PEPPER. I think it is only fair to say, is it not, that the Taft-Hartley Act is a vastly different act in theory and in coverage from the Wagner Act?

Mr. McCABE. Well, I would say that it is far wider in scope. I don't like to pronounce any judgment on the theory of it. Being academic, I am a little bit afraid of theories.

Senator PEPPER. As some of us are of the Taft-Hartley Act.

Senator SMITH. Mr. Chairman.

The CHAIRMAN. Senator Smith.

Senator SMITH. In this connection, Mr. McCabe, I want to ask you a few questions.

Wouldn't you say that the Wagner Act was successful in building up unionism and there was a large increase in membership of unions after the passage of the Wagner Act?

Mr. McCABE. Yes; the Wagner Act was only one cause.

Another contributing factor was the general change in economic conditions.

Senator SMITH. There was an increase in unionism; union membership?

Mr. McCABE. Yes.

Senator SMITH. And the unions did increase in power because of the increase in membership; and wasn't it true also that certain abuses appeared—you have testified to some of them—abuses insofar as the members of the unions were concerned and certain needs to protect the

members in their own individual right to join or not to join in those areas, and also didn't certain abuses appear because of the power that grew out of this accumulating union membership?

Let me make it clear that I approve of that. I think we should see larger unions, and I am in favor of strong unions.

What I am getting at is: There were certain abuses that appeared with the increase in membership. Isn't that a fact? The national emergencies you have testified to grew out of the greater power the unions had because of their greater size; is that right?

MR. McCABE. I wouldn't necessarily call the appearance of the national emergency strike an abuse. I think it was a problem.

SENATOR SMITH. A problem; yes. Let's call it a problem, then; not talk about abuses; but let's say problems were presented both to protect the workers because of the increase of the closed-shop principle and the union-shop principle; protect his rights as an individual American citizen, and also the problem presented by the national emergencies that did grow up as a consequence of this rapid union development.

MR. McCABE. Yes.

SENATOR HUMPHREY. Will the Senator yield for a moment?

SENATOR SMITH. Just a minute; if I may finish my thought.

So I have always figured this, and I want to see if the witness will agree with me: that the Taft-Hartley Act had two critically needed objectives. One was to protect health and safety of all our people from the defiant autocracy of bigness, and when I say bigness I mean a big business or big labor. If there was any autocratic evidences on either side, I have always felt that the public needed a protection, and these national emergencies brought out the fact that that protection was necessary, and that is why we thought in our Taft-Hartley negotiations of doing something to take care of that. It may have been done wrong, but the motive was to take care of one of the consequences that grew out of this increasing size of the labor organizations. We can all approve of the labor organizations, but if these emergencies grew out of them, we were called upon as legislators to deal with them.

The other was to protect the workers from exploitation of big business as it was before NIRA and the Wagner Act. I always felt business was in a position to exploit the worker, and I was opposed to it.

However, on the other hand, since the growth of big unions, there has been the power in the hands of union leadership, unless we meet it in some way, to exploit the worker and make him a pawn in the game of bigger and stronger unions. It seemed to me we were called upon to try in some way to protect the worker with regard to union dues, assessments, conditions of membership, firing from unions, and along the line of your own testimony today with regard to the closed shop.

Isn't that a reasonable conclusion—that those are the two main objectives that faced us when we were trying to write the Taft-Hartley legislation 2 years ago? And when you analyze the whole law, was there any other objective in it?

I don't find anything else except to cure certain outgrowths of the inevitable result of bigness in this labor situation in America. We can approve the labor movement. We can approve the splendid testimony Mr. Randolph gave us—I hope to question him later on some of those points. I can approve all those things and still say we had

a responsibility, in spite of what my distinguished colleague from Florida is insisting, to write into our Federal law, as long as the Wagner Act brought the Federal law into the picture, safeguards against the consequences of bigness.

Mr. McCABE. I agree with that—that the situation called for some safeguards and that was recognized long before 1947. I recall that I stated these views about the necessity of due process and the guaranty of a democratic form of government as long ago as December 1941 at the meeting of the American Economic Association when this general subject was under discussion.

It is significant to me, at least, that at a meeting here in the city of the American Economic Association in January 1943 one of the speakers, Prof. Abram Harris, of Howard University, reverted to what I had said along this line at the previous meeting and endorsed it.

In November 1943 the American Civil Liberties Union published a report on democracy in trade-unions. I think that was the title. The committee that sponsored that investigation and report included John A. Fitch, the late Monsignor John A. Ryan, Jacob Bilikof from Philadelphia, Norman Thomas, I think, and a list of others who were not members of the bund.

So that this problem, I agree, was present before 1947. When you increase the scope of unionism, the coverage of unionism as it has been increased—and I welcome it—you enlarge the proportional size of the problem of the protection of the individual. When you had a small number of trades and industries organized, it wasn't such a problem. There were so many places in which a man could go to work without belonging to a union. The problem became more acute.

Senator SMITH. The very bigness that we can contribute largely to the Wagner Act.

Mr. McCABE. The Wagner Act helped.

Senator SMITH. Senator Humphrey, you asked permission to ask a question?

Senator HUMPHREY. I would just as soon permit you to finish your interrogation. I want to deal with the problem more extensively.

Senator SMITH. I did want to ask the witness two other questions.

The CHAIRMAN. Yes.

Senator SMITH. From your studies in Princeton you followed pretty well the development of labor legislation for a good many years?

Mr. McCABE. I tried to.

Senator SMITH. You studied the set-up of the Labor Department. I have talked to you about that. We have one issue here that seems to be a very controversial one, and that is the question of the Mediation and Conciliation Service, which some of us feel has functioned more effectively outside the Department as an independent body without any suspicion on it of any bias whatever, and we on this side are opposing its being returned to be a part, as they say, for housekeeping purposes of the Department of Labor.

I am wondering if you feel qualified to make any comment on that question of organization.

Mr. McCABE. Senator, I won't say that I am qualified, but I will make the comment.

Back in 1914 and 1915 I made a study with the late Professor George E. Barnett, of Johns Hopkins University, of mediation, investigation,

and arbitration in labor disputes. This was for the United States Commission on Industrial Relations.

The staff report, which will be found in the final report of that Commission, followed generally our recommendations. I did the field studies on the State agencies. I was strongly impressed by the belief among employers that a mediation agency working out of a Department of Labor was not impartial, that it was trying to get more for the unions than they could get for themselves, including recognition.

The report that we made then brought that fact out, and our remedy, which was adopted as the staff recommendation, was that the mediation agencies be separated from the Department of Labor in the States and that at the Federal level a mediation commission or board be set up independently of any Government department.

The mediators or conciliators—and there were very few of them—who worked under the Secretary of Labor were then generally considered to be labor's men. The Secretary of Labor then and for many years was a trade-unionist, and I may say I think he was a grand Secretary of Labor.

Senator SMITH. The Department was intended to look after the interests of labor, and I always felt it should.

Mr. McCABE. That was the impression that we had and it was the understanding in those days that the Commissioner of Labor should be a trade-unionist, and without any thought of disparaging the recent incumbents, I still think that if the organized labor groups could agree on somebody, that the Secretary of Labor should again be a trade-unionist, so that the Department of Labor is generally regarded as Labor's Department, and the attaching of the Mediation Service to that department has been interpreted by employees generally, so far as I can see, as well, militating against their impartiality.

Now during the war I think that the mediators from the Department got a much warmer welcome from the employers. That may have been due to the war situation. I am not at all sure that the results that the present Director has got are due entirely to the fact that the Mediation Service is independent of the Department of Labor.

It may be that some of the enthusiasm of the employers for the Service is due to the fact that Mr. Ching is the Director of the Service, but on the whole my impression still is that the employers would be more inclined to accept the impartiality of the Service if it were not in the Department of Labor.

I do not say they are right. I am giving you my impression of what their attitude is, and it may be that I am too old to change, but that was my thought through the years, and I am inclined to stick to it.

Senator SMITH. Mr. Ching has done a good objective and impartial job as mediator from your observation of him?

Mr. McCABE. So far as I can see, yes. I think frankly that anybody who is in the mediation business for any length of time gets an understanding of what the workers want that makes him a little more sympathetic with the workers.

I think you find that tendency anywhere.

Senator SMITH. Now just one more question, Mr. Chairman, and I am through. I am very much concerned over this question of secondary boycotts. There has been a lot of discussion before the committee and I am trying to get my own mind straightened out on it, whether

there are good boycotts and whether there are bad boycotts, whether in legislation we could say all boycotts are good except these which we list, these are bad, or whether we should say all boycotts are bad except these which we list, which are good.

Have you any thought as to the right approach to that? In other words, is the presumption against secondary boycotts with certain exceptions, or is there a presumption in favor of secondary boycotts with certain exceptions the other way?

Mr. McCABE. That is a hard one, Senator, whether you start at this end of allowing them or at that end of forbidding them, you are bound to get into quicksand somewhere in the middle.

Let me start with the permissibility. I would permit the secondary boycott where the workers who put the boycott on have a justifiable interest in the boycott, and I include in their justification the unwillingness to be regarded as assisting in breaking the strike, even at one removed.

For example, I recall raising this question many years ago, long before the Wagner Act. If a hat manufacturer in Danbury—and somehow we associate the hat industry with the secondary boycott—had a strike in his plant and he sent his finished hats to a plant in Orange, N. J., that belonged to another company, should the workers in Orange, N. J., have a right to refuse to work on those hats?

It was then against the law, but I said that they should have, that the law should be changed. And I still think so.

I would not ask any workers, I would not tell any workers that they are forbidden to refuse to work on work that has been transferred from the struck plant to their plant. Along that same line let me say I doubt that that should be considered a secondary boycott.

There is such a unity of interest between the two plants. One is a projection of the other, temporarily at least. In a case such as this, a plant is on strike and the workers are asked to bring materials into it or take products out of it. I would not forbid them to refuse to do that.

Along this same line, I recognize a unity of interest between members of the same national union. Now, for example, if the Amalgamated Meat Cutters and Butcher Workmen—if that is their correct name—were on strike in several plants of a slaughtering and meat-packing company, I would not forbid members of that national union who are employed as butchers and retail outlets, chain stores, and so on, to refuse to handle that product.

Now where there is this unity of interest between the workers and the strikers, or if there is not, if they are not connected with the same national union, where the issue was presented as one of assisting in strikebreaking, I would not forbid the boycott.

At the other end I would forbid boycotts that are aimed at compelling an employer to do something that the National Labor Relations Act tells him would be an unfair labor practice for him to do.

Now coming in from this side toward the quicksands, I would not allow a secondary boycott whose purpose is to coerce workers to join the union where the processes and procedures of the National Labor Relations Act are open to them.

In other words, I would recognize the right of workers to choose their own union. I would recognize their right to choose no union



at all if they have the right to choose the union, and if the Board facilities are open to them—for example, suppose that there is an election in a plant and the union loses and the Board certifies the results. The decision went no union.

I do not think that another union should be allowed to put a secondary boycott through onto that employer to compel him to deal with the union that lost the election.

Senator DOUGLAS. Dr. McCabe, of course that is precisely the type of secondary boycott that is forbidden in the Thomas bill.

Senator TAFT. Will the Senator yield? I would deny that, Senator. I do not think so; only if there is another union certified but not if there is no union.

Mr. McCABE. Well, now, I am in the middle again.

Senator TAFT. I think that is correct. I think it is true the Thomas bill only covers a secondary boycott which intends to make an employer recognize one union when another union has been recognized.

That is my impression. It either has been officially certified or recognized and dealt with as the majority.

Senator SMITH. That is all I have.

Senator PEPPER. Mr. Chairman, will you allow me again? Mr. McCabe, I heard a similar statement made by my distinguished friend from New Jersey a good many times, and it sounds on its face a very fair, very impartial approach to this problem.

What I cannot see is the quality of application of regulation in the Taft-Hartley law to abuses on both sides of the line in the management field and in the labor field.

I do not find very many things in the Taft-Hartley law to impose any new obligations or penalties upon management. Do you find many?

Mr. McCABE. Well, I do not find many.

Senator PEPPER. Well, would you name those that you can recall?

Mr. McCABE. They kept most of those so far as I recall, that the Wagner Act put on the employers. The act was not passed, as I understand it, to put more obligations on employers, but to put some obligations on unions.

Senator PEPPER. Well now, that is exactly what I am getting at, exactly. That is exactly the reason that I cannot agree that the Taft-Hartley Act accomplishes what the Senator from New Jersey seems to postulate in his statement.

I remember a few years ago the distinguished chairman of this committee and another Senator, Senator LaFollette, conducted extensive hearings and revealed in numerous reports to the American people, shocking abuses of the power by the employers of this country, especially the big corporations, and the violence, including physical violence, and the many other practices which they perpetrated upon the workers of this country.

There must not be one of them left, because there is nothing in the Taft-Hartley law about any of them that I have found anywhere.

You are a professor of economics and I imagine you could give us all sorts of figures about how monopoly has constantly grown in this country, and I think probably if I saw the right figures a day or two ago, that 2 percent of the employers of this country employed 60 percent of the industrial workers of this country.

The Senator from New Jersey talks about bigness being bad. I do not see anything in the Taft-Hartley law to diminish big business in this country.

Senator SMITH. I object to big business as much as to big labor——

Senator PEPPER. There is nothing in the Taft-Hartley law to carry out your objection.

Senator SMITH. If you point out where we need that, I will go along with you to correct abuses.

Senator PEPPER. I would like to see whether you will join me.

Senator SMITH. Certainly I will.

Senator TAFT. There is nothing against the monopoly of labor unions in the Taft-Hartley Act. We expressly omitted anything of the kind.

Senator PEPPER. Every statement that has been made, almost, has talked about the danger to the workers of the bigness of labor unions, and they had to be regulated, they had to be controlled. Yet monopolies——

Senator TAFT. Nothing against their bigness, though. That is the point you were making.

Senator PEPPER. That is the language that has been so often used here, about the bigness of these unions, and against bigness on either side, but the only legislation I see the Senator voting for and advocating is the bigness that is bad in the labor unions, to regulate them, and none of these practices on the part of management or in any way at all affecting them.

Another thing, we are talking about democracy. We want to be sure there is democracy in the labor unions. Yet we read in the papers here a man can come along and control the New York Central Railroad with less than a half of a percent of stock, 1 or 2 percent of stock, and that one man can control the labor policy and every other policy of several different railroads by the way he votes, an infinitesimal share of the stock, and that one man has the power to adopt labor policies inimical to every employee in his organization.

I do not see anybody offering any amendments to put into the Taft-Hartley law, and I did not see the authors curbing that kind of power and its abuse, that kind of bigness because it was bad, and that is the reason that some of us do not subscribe to these declarations, as nice as they sound and undoubtedly as well meaning as they are, that this is a law wherein the Federal Government reaches out here to the corporate structure of America and says:

“We are going to put democracy in the corporate structure of America. We are going to break up dangerous bigness in monopoly in this country. We are going to reduce the size of bargaining uses in both cases. We are going to weaken corporate power.” but when management owns nearly all the property in this country, when they own the press and the radio and when they have got the money of the country, then they talk about “You have got to use the power of the Federal Government to keep workers from dominating the big business monopoly of this country.” it just seems to some of us nonsensical.

Senator HUMPHREY. May I follow in line with that, Senator Pepper.

That was exactly where I was trying to interrupt a while ago. I would like to fortify some of the observations made by the distinguished Senator from Florida.

I heard Senator Smith say a while ago, was it not true, he asked you, Professor McCabe, that the national emergency was a result of the power of unions. Do you recall that statement?

Senator SMITH. No, no.

Senator HUMPHREY. Yes; I copied your words exactly. The record will reveal your statement was that national emergency was the result, undoubtedly was the result of the power of unions.

Senator SMITH. The abuse of power.

Senator HUMPHREY. Abuse of powers by the union. All right, we will assume that for a moment.

Senator SMITH. By big business and by big unions. I was speaking about bigness. You have these great units fighting with each other. That presents the emergency.

I was not saying any more on labor's side than the other. You have the two big groups fighting with each other which presents the national emergency.

Senator HUMPHREY. I will concur in the idea they are bigness, and two giants fighting with each other can produce a very serious situation. However, I would not, as I said once before, consider the problems brought about by two giants, if one were the size of Tom Thumb and the other the size of Paul Bunyan in Minnesota. I mean that would hardly be two giants.

Senator SMITH. You mean the elephant and the mouse story.

Senator HUMPHREY. No; I mean the Paul Bunyan and Tom Thumb.

I would like to go back and quote from the records as compiled by the economic report of the President, transmitted to the Congress in January 1949.

I wonder how many of us thought that when this (postwar) national emergency took place in labor-management relationships that possibly something had happened in the economic structure of America. Now, let me relate just what happened in the economic structure of America. In 1940, corporate profits, after taxes, \$6,400,000,000; 1941, \$9,400,000,000; 1942, \$9,400,000,000; 1943, \$10,400,000,000; 1944, \$10,800,000,000; 1945, \$8,700,000,000; 1946, \$12,800,000,000; 1947, \$18,100,000,000; 1948, \$20,800,000,000—a total of profits in 8 years of \$106,700,000,000.

Now, I might just say that up until the time of the labor-relations frictions in 1945 we had a total profit of about \$49,000,000,000 that had added to the corporate wealth of this country. We had a national emergency in rails; is not that right? We had a national emergency later on in coal. I would like to ask the members of this committee, for their own edification and for the purposes of the record and for our own information, to look up and see what the profits were of railroads from 1940 to 1945. I am of the opinion they felt their oats; that it was about the time they felt that maybe they ought to try to see what they could do to organized labor.

I would like to remind them that the profits of automobiles was the greatest percentage profit on investment that they have ever known in the history of their industry, and the same was true of steel.

Wherever there was a major labor dispute taking place in this country you will find a strange correlation; just as you find between disease and slums, you will the relationship between strikes and profits right smack-bang down the line.

Now, let us see here. We said unions were getting too big. Well, now—

Senator SMITH. I did not say they got too big. I said they just got big, and bigness is what created the emergency.

Senator HUMPHREY. Well, we understand, for example, one of the statements made here was the increase in union coverage had posed part of this problem. The increase in union coverage in America had brought up part of this problem.

Now, at the peak of our employment in this country, in August of 1948, we had 63,186,000 in our total civilian labor force, and of that 52,800,000 were in nonagricultural pursuits.

Now, how many members do we have of organized labor? About 15½ million to a maximum of 16 million. Right?

Now, it seems to me that they were not so big. As a matter of fact, the labor movement has not been able to get 50 percent of the gainfully employed workers of this country. As a matter of fact, the labor movement has been lucky to get 30 percent—and I am exaggerating it. Actually, the figures reveal about 27.5 percent of the gainfully employable force of this country, and yet, as the distinguished Senator from Florida points out, the 2 percent of the employers of this country, 2 percent of the corporations of this country, are responsible for 60 percent of the industrial workers of this country.

Well, now, that does not show to me that this is such a great omnipotent power of labor, and before we go to vote, I would like to point out that we have 31 percent of the families of America at the beginning of 1948 that have an income, a gross income, under \$2,000—31 percent of the families of this country.

Now, let us get over this monkey business, about somebody coming around here with a blackjack and knocking this poor, innocent, weak management in the head. As a matter of fact, what has actually happened for the main reason of our industrial disputes—and I think if you get down and look into the reports again, you will find out that the No. 1 reason has been the unusual rise in the cost of living plus the exorbitant profits of American industry, and those profits are going up yet, even as unemployment sets in, in this country, even as farm prices come down, by the way, even as our dairy farmers are being taken to the cleaners, and our cattle farmers are finding their market breaking. What do you find out in industry? You find profits going right up.

As a matter of fact, profits went up the third quarter of 1948 at a 5 percent greater average than it had in any other quarter in the history of the country.

Now, it seems to me that we ought to get that into the record for a while here. I am kind of tired listening to all this business about how big labor has gotten to be around here, and I have yet to find a dozen men in labor that have turned out to be millionaires, and I would like to bring before this committee and the witnesses—all of them—some assumptions I feel ought to be made that are not being made here.

What are some of these assumptions? Well, one of the assumptions is that our force was exploited by the workers, and that is not an assumption that it a valid point. Our minds were not exploited, Senator Pepper, Senator Taft, and the rest of us, by the workers. This country has been bled white by those who got rich off the exploitation of our human and natural resources, and that is one of the reasons we had the Wagner Act.

I will make this statement without fear of correction. No single group, in the history of American Government, has done more to raise the living standards of the American people than organized labor, even with its abuses, and it has had some abuses, but, believe me, if there is a roll call in heaven on the basis of abuses and upon saintly living, I am here to predict that every union will have a seat at the right hand of St. Peter, as compared to what management will get over the 200 years of history in this country.

Now, just one other point. I did not intend to make this speech, but I have listened to this stuff long enough. [Laughter.]

Senator SMITH. But I ask the distinguished Senator a question. Assuming all he says is true, for the purposes of this question, we have had presented to us because of these facts which he cited and the other faces we discussed this afternoon, these national emergencies. All I am suggesting to you is that we have an issue to deal with, and let us deal with it not in calling names, but let us try and get the people together on this thing, management and labor, and see if we cannot work this out on a partnership basis and not on a warring basis. That is what I want to see brought about. I do not want to call names. I want to see more cooperation in America and less class division.

Senator HUMPHREY. God bless you, and I say, in all reverence, so do I.

Senator SMITH. I hope you will battle for that.

Senator HUMPHREY. I fought for it in my city for 31½ years, as mayor, and we had it. But I want to point this out, that when controls were taken off in this country and when profits were permitted to rise, and when salaries were always lagging behind profits and prices, the workingman in this country who helps pay the taxes, fight the wars, dig the ditches; he was getting a cleaning, and he did not like it and expressed himself through his union.

In terms of what Senator Pepper said, I want to know this: We have heard a lot of democratization here and protection of individual rights. I make this statement without any fear of contradiction.

For every worker that has ever been denied a basic right in the American pattern of rights, so help me there have been a thousand, yea, unto a million individual people in this country that have been cheated, reamed, steamed, and dry-cleaned on the market, through bank failures, through speculation and everything else, and I did not hear anybody crying so many crocodile tears about that.

As a matter of fact, it took, let me tell you, quite a liberal Congress and President to get something done about that, and there has been a good deal of it happening in the last 2 or 3 years.

Now, there is just this question I would like to ask my distinguished friend in front of us; I have colleagues that think very much of the professor. I have admired him for many years. I spent years studying the history of American business.

Would the history of American business as you know it indicate that the employers, without unions or with unions weakened or unions standing as they are, would they openly give fair wages and good working conditions to the working people?

Mr. McCABE. I do not think they would give them any more than they were forced to give them by the unions.

Senator HUMPHREY. All right. Now, let me ask you this question. Do you think that it is important for the high standard of American living that the individual incomes of our workers be elevated throughout the United States?

Mr. McCABE. Yes; I do.

Senator HUMPHREY. Do you think the Taft-Hartley Act has promoted unionization in areas of this country where there is a great need for the elevation of the standard of living?

Mr. McCABE. I would not say that the Taft-Hartley Act as such has promoted it.

Senator HUMPHREY. Would you say that it has hindered it?

Mr. McCABE. I think that the net result of the passage of the Taft-Hartley Act was to make it more difficult to increase union membership.

Senator HUMPHREY. Do you think, with 31 percent of the people of the United States trying to get along under \$2,000 a year—and I am beating my brains out trying to get along on \$10,200 a year—do you think those people— [Laughter.] Do you think it ought to be made more difficult to raise their standards of living or ought it to be the policy of the Congress of the United States to make it easier for them to raise their standards of living.

Mr. McCABE. I think it ought to be made for them to raise their standards of living.

Senator HUMPHREY. Let me ask you this: Do you think the Government of the United States by fiat, by a law, should lift those standards of living, saying that all people shall be paid at least—you cannot get by on much less than \$1 an hour? We are talking about minimum wages at 75 cents, and I want to find out who can live on 75 cents an hour. Should we have the Government of the United States put those wages up?

Mr. McCABE. I am in favor of raising the minimum standards.

Senator HUMPHREY. The Government put the wages up to \$1.25 or \$1.50, something like that?

Mr. McCABE. I would go slowly on this. I would be in favor of handling the thing industry-by-industry, on the basis of feasibility, because I have been preaching the doctrine of the living wage for many, many years.

Senator HUMPHREY. By government?

Mr. McCABE. Where necessary, yes.

Senator HUMPHREY. You go further than I do, and I have been accused of being a radical sometimes.

Mr. McCABE. I know. I have good orthodox grounds for my advocacy.

Senator HUMPHREY. I know you have.

Mr. McCABE. I believe that the thing should be done as rapidly as possible, but in the sinful world in which we live and in the economic system under which we operate I would try to take care that we would not go so fast as to produce unemployment.

Senator HUMPHREY. Well, let me ask you this question. Do you think unions serve a function in raising the wages of people?

Mr. McCABE. Of course.

Senator HUMPHREY. Of course they do.

Mr. McCABE. Yes.

Senator HUMPHREY. Now, I want to ask you this question. Is it better for this to be done in the free play of the free market or is it better to be done by what I call congressional action, and then bureaucratic control?

Mr. McCABE. Well, if I understand you, I think it is far better that it should be done by free action, but where free action is inadequate, then I would supplement it by Government action.

Senator HUMPHREY. I would agree with you. All I want to point out to you and to the committee, and I trust that my assumption and my feelings about this meet with your approval, is that to me the labor movement has been one of the great mechanisms in this country that has done much to elevate the standard of living of our American people and thereby make possible such profits as I have listed and make possible such grand national income. I also can say that in the areas of America where there is a weak labor movement—and we have areas of America where there is a weak labor movement—the people are impoverished and industry is still living back in the days of robber barons, and I speak with a certain amount of observation.

I watched, for example, in a State in this Union where plants in peacetime were barricaded by barbed-wire fence, and I think that it is not exaggerating to say that that happens in certain parts of America. I have watched, as you have watched, the whole industry leave the New England States, go some place else to get cheaper labor. Now, who does that help? Does that help me buy a cheaper shirt? Not one bit.

As a matter of fact, you pay as much for a shirt whether it comes out of Mississippi or from New Hampshire or Vermont, though wages are a good deal different.

When I was teaching at Louisiana State University I saw workers come down into Jackson, Miss., and work in a textile plant down there, and it was not a matter of whether they were colored or white. They were all poorly paid, every last one of them, and the companies fought the unions, and I think the records will reveal that in the year 1940, when union organizers were brought down into some areas of the State that I like so well, the good State of Louisiana, that they came in contact with some very brutal treatment, and I did not see, even then, the Congress of the United States rushing into action to protect them or anybody else.

Mr. McCABE. Was this in 1940?

Senator HUMPHREY. This was in 1940. This was under the days of the Wagner Act when it was supposed to be easy to organize, and they still had trouble organizing.

I think the distinguished Senator from Alabama can tell us of some of the difficulties there have been, in organizing in certain areas of America, and it was difficult in the city of Minneapolis to organize. We had blood in our streets in 1934—an open-shop town—construction labor, 35 cents an hour.

Now, I can see, speaking for my own State of Minnesota, that since the passage of the Taft-Hartley Act there has not been one single new local union organized, not one, and I can honestly say that nothing has been of more benefit to the people of my State in terms of purchasing power of the people than the legitimate aspirations, and, let me say, achievements of the trade-union movement.

We had some difficulty, but, you know, one thing amazes me, gentlemen. Some of the most respected families of my own State are people

that were in the forestry business and in the lumber business, and I had many dear friends amongst them. But nobody is coming around to point the finger nowadays and say, "Look at that fellow, look at the money he made off the woods." Is he? But we still have people talking in my town and bringing it up every time that they can, that once we had difficulty with the teamsters, in the city of Minneapolis, 15 years ago.

I am here to tell you that if it was not for such organizations as the teamsters in my city, and the building construction laborers, and the crafts, and the rest of them we would still be a poor city, but instead of that we are one of the most beautiful, and, let me say, one of the most economically sound cities in the United States.

Well, I have a lot of other questions. I only asked you one and gave you a speech here. Let me see.

I have just one other thing in reference to this emergency power. You asked for a board. I was interested and intrigued with what you had to say. I think that your prepared statement and your remarks are extremely constructive, and even if I may not agree with every paragraph of it, I want to tell you that to me it is one of the really constructive bits of testimony that has been given here at the hearings.

I am interested in your powers of the emergency board.

Now, will you just develop that a little bit more?

Mr. McCABE. Do you mean the board that would be appointed simultaneously with the order to call off the strike?

Senator HUMPHREY. Yes, that is right.

Mr. McCABE. That would be, in effect, a board of arbitration with authority to fix binding terms.

Senator HUMPHREY. In other words, the President would appoint this board?

Mr. McCABE. Yes.

Senator HUMPHREY. Then, did I understand you to say that this board then would literally manage that industry?

Mr. McCABE. No; I said the Government; I did not say this board necessarily, because I assumed that the board would be selected from people who would be especially qualified to pass on the labor issues, but that the Government, through some administrative arrangement should take control of the prices and the allocation of the product during the period of strike prohibition, and the pendency of the fixed terms.

Senator HUMPHREY. Do you not think it is a rather dangerous thing in this country—and by the way, I believe in private ownership. I have not been one of those that has advocated national ownership.

I did not even go so far in my city as to advocate municipalization of public utilities, lest anybody have any doubts, but I have always been somewhat dubious or somewhat concerned about an industry that can fall into the hands of a handful of people that is so vital to this economy that at any time that it should be in distress through labor disturbances the economy would literally be prostrate. I mean, I think it is one of the fundamental problems that faces our country, because I can show by verse and chapter that as far as corporate control is concerned, boy, that is the biggest fairy tale of our time. There is no democracy in corporate control, on what we know of big corporations.



Mr. McCABE. In corporations, it is not individuals who vote, it is the money.

Senator HUMPHREY. But that is not democracy, is it?

Mr. McCABE. Well, it is hard for me to think of democracy inside of corporations based on the number of individuals rather than upon the number of shares of stock that the individuals own. That would be a very great change in the whole nature—

Senator HUMPHREY. It would be cooperative ownership.

Really, what a man in a union has is one vote, no matter what he is in the union, but if he were a 20-year member, maybe we ought to give him 20 votes.

Mr. McCABE. I would not say so, no.

Senator HUMPHREY. I mean I would not either. But here is a man that comes along—and I am perfectly willing to admit, not only admit, it is a matter of record. A man owns a million dollars worth of stock. Let us say they are a thousand dollars a share. He has got 1,000 shares of voting stock. Right? O. K. But the point is there are a lot of people that own thousand dollar shares that do not even get a vote.

Mr. McCABE. The law allows them a vote.

Senator HUMPHREY. No; my goodness, in the selling of corporate stocks there are nonvoting stocks, there are class A and class B stocks.

Mr. McCABE. Oh, yes. I thought you were speaking of the ordinary vote in common stock.

Senator HUMPHREY. I was so intrigued by your right of the National Labor Relations Board, to have the right to investigate a union, as to whether or not the leadership represents the majority. Now, I agree there are instances in American labor—and believe me I do not like them, and I have told my friends in labor, “You clean up your own house, and quick, or somebody is going to do it for you,” I have said that a number of times. I have not been a “Milquetoast” with my friends in labor. They know that. I have talked to them and talked to them from morning to night when I think they are wrong, but when I think they are right I battle for them, too.

Now, the National Labor Relations Board is to have the right to investigate the union on the complaint of a substantial number of members as to whether or not the leadership represents the majority. That is your proposal; right?

Mr. McCABE. Yes.

Senator HUMPHREY. Now, this labor-management relations, we do not bring in all the stockholders, nor do we bring in all the unions. If we did that we could not get a big enough meeting hall, no matter what we built. We would have to have the Roman Coliseum 10 times larger, so what we do is bring in the representatives of the stockholders and they bring in what they call a negotiating committee from the union, and there are always more members of the union in the negotiating committee than there are representatives of the management.

In other words, the union generally brings 20, 15, 10 people along. Now since this bargaining relationship is between this narrow group, and if I were to accept your proposal—and there is some merit in your proposal, but if I were to accept that proposal—I would want to know that this guy that is running that plant, this manager that

is running the plant and those two or three agents he has around him, they have the approval of the majority of the stockholders, not the majority that have the voting stock. I mean the majority of all the stockholders that have invested their money, because it is the history of corporations that the voting stockholders generally come out all right in the corporation. The bondholders always come out super-duper right, and then you find out that the preferred-stock holders come out fairly well right, but there is another group down here that has put their money in it as a nice little investment, and we talked about widows and orphans the other day, and they generally just stay widows and orphans after everything has been settled.

Mr. McCABE. You cannot change that.

Senator HUMPHREY. That is right, with all the appendages, by the way, that go along with it.

I would like to ask would you propose then that in these negotiations if the National Labor Relations Board is to have the right to investigate a union as to whether or not the leadership represents the majority, would you incorporate in your same law that the Securities and Exchange Commission have the right to investigate whether or not Sewell Avery represents the majority or whether or not, let us say, any other man represents the majority. I remember the sit-down strikes.

Mr. McCABE. Yes; I would agree to that, if you mean by a majority does he represent a majority of the voting stock.

Senator HUMPHREY. No; I mean a majority of the stockholders.

Mr. McCABE. Well, I think that is a very, very different concept of determination of action inside a joint stock company.

Senator HUMPHREY. All right. I just want to say that a hue and cry would go up in this country from my friends on the other side, not all of them but some of them, my friends on the other side, if the unions were told "All right, if you have been a 30-year member, God bless you, you get 30 votes in the union."

If we had that incorporated in the rules of the union, they would say "Look at that. Why what unfair practices we have in these unions," so the poor union leader has got to get everybody to vote with him or at least a majority whether he has been there 30 years or 30 minutes, and sometimes there 30-minute guys are a little tough to get to vote with you because they have been already indoctrinated on the outside that maybe they ought not to support the leadership.

I am pointing out this problem is not in the balance like this beautiful figure we have before the Supreme Court Building. This is not the Lady of Justice. As a matter of fact, one of them over here has got a little tea cup, and the other one over here has got a boiler instead of it being being a matter of justice.

If we are going to legislate for protection in the internal organizations of the union and its membership—because the only property that a worker has got is his job and his ability to work; that is most of the property that people have.

We talk about chains of concepts. Well, property used to be in lands and then it became stock certificates, but for the great mass of the American people, the kind of people that I have gotten to know and that I have been privileged to know, the main property that they have is the fact that they have some ability and capacity to go to work, and that is about the only property that they will ever have.

Now if we are going to legislate as to the internal organization of a union—and so help me, as long as I serve in the Government of the United States, I am going to insist that we legislate as to the complete internal organization of business if that is what we are going to do across the bargaining table in the processes of collective bargaining.

Mr. McCABE. No objection to your doing that, Senator.

Senator HUMPHREY. I am glad I have one convert.

Senator TAFT. There is quite a complete regulation now as to the kind of proxies that must be used, information supplied, and so forth by the SEC.

Senator PEPPER. By the Federal Government?

Senator DOUGLAS. That is on the original issuance of stock, Senator, but not on the voting powers once the corporation is underway.

SEC merely requires truth-telling in the sale of securities, but it does not solve the problem as to how you can get the owners of stock to vote, and do not we all know, as Mr. Ripley pointed out over 20 years ago, that in practice the holders of a small percentage of stock actually control most of the major corporations in the diffused ownership of the many. The diffused ownership of the many is either not voted, or to the degree it is voted does not find representation on the board of directors.

Mr. McCABE. Senator, I think you should explain you are referring to the late Professor Ripley.

Senator DOUGLAS. That is right, Main Street versus Wall Street.

Senator PEPPER. I wonder how many advocates—

Senator TAFT. The SEC does prescribe proxies, form of proxies, and requires that they be set out properly, that everybody have a chance to vote, and that information be supplied when the management requests it, does it not?

Mr. McCABE. I think so, but I am not familiar enough with it, Senator, to give a definite reply.

Senator HUMPHREY. I would like to say without any fears at all in my heart that for every single undemocratic union organization that the senior Senator from the State of Ohio can produce and for every evidence of corruption he can produce in union organizations I will produce 25 on the other side.

Senator TAFT. I did not accuse any of them—

Senator HUMPHREY. I did not say you accused them at all, but there has been talk about antidemocratic practices. You happen to believe that we ought to have the right of decertification.

There are a lot of things that you believed in the Taft-Hartley Act, and all I am simply saying is that for all of these things that you have legislated for concerning the unions—and there must have been some wherein they were legislated for—I will produce 25 examples on the other side where some outfit has been able to grab a whole empire, railroads, utilities, corporate holding companies, right down the line. We know that. There is not any doubt about it.

There was a statement made here a while ago about power. Where does the economic power lie in this country? In other words, somebody wanted to have a balance of power.

I believe Senator Smith was concerned that we have a balance.

Senator SMITH. No; I am not interested in a balance of power. I am interested in cooperation, not warfare, if you want to know my fundamental philosophy in this thing.

Senator HUMPHREY. We are talking about the domestic economy for the moment. I thought you were interested in seeing to it that these parties respected each other on the basis of mutual respect and of cooperation, and that there had to be some balance, that you were worried about the unions who were getting too strong.

Senator SMITH. No.

Senator HUMPHREY. Were you not worried about the unions getting too strong?

Senator SMITH. I am worried about bigness getting too strong on either side.

Senator HUMPHREY. All right; that is what I mean.

Now I want to ask the distinguished professor a question.

In your mind, where does economic power lie in America, in the trade unions or in corporate wealth?

Mr. McCABE. Well, I should say that under ordinary circumstances the greater power lies with the corporations. I should say that in some industries where you have strong unionization and small employers—

Senator HUMPHREY. Oh, yes.

Mr. McCABE. That the union may have the edge in good times.

Let me say, Senator, that I do not think that even unions can do everything that they want when the economic conditions are bad. When the economic conditions are bad, the unions have to roll with the punch.

Senator HUMPHREY. Absolutely. For example, I understand Mr. Reuther right now, instead of asking for a wage increase—maybe my information is wrong—I understand he feels now would be the time not to open up wages in view of the fact that there is some settling of living costs.

There may be some possibility of a slight recession. I hope that is not true. He is talking in terms of welfare funds, is he not?

Mr. McCABE. I think there has been something in the newspapers to that effect.

Senator HUMPHREY. I do not know. I have not talked to him.

Mr. McCABE. I am not in his confidence, I am sorry to say.

Senator HUMPHREY. I am not, either. I would like to be. I have great respect for him.

I will yield and I am through.

Senator PEPPER. Mr. McCabe, would you see any analogy between Congress legislating the Taft-Hartley Act in the labor field, to Congress adopting Senator O'Mahoney's proposal that all corporations engaged in interstate commerce should be licensed by the Federal Government and the Federal Government therefore have direct control over the conditions upon which they do business and so on?

Mr. McCABE. I see no objection to that. I saw no objection to it over 40 years ago when Theodore Roosevelt advocated it.

Senator PEPPER. Maybe Senator O'Mahoney would be pleased. Are we entitled to assume that all the members of the other side who are advocates of the Taft-Hartley Act are also in favor of Senator O'Mahoney's bill?

Senator MORSE. Call the role? [Laughter.]

Senator TAFT. My father advocated it 40 years ago also, and I have always thought it was a good idea.

Senator SMITH. I never objected to it.

Senator HUMPHREY. It is a funny thing, everybody thinks it is a good idea.

Senator PEPPER. The interesting thing is it was not passed during the time the author of the Taft-Hartley bill was in control of the Senate.

Senator TAFT. It was not pressed either, as far as I know, by Senator O'Mahoney.

Senator HUMPHREY. We looked for leadership from the Republican side at that time.

Senator HILL. Mr. Chairman, may I ask the doctor a question?

Incidentally, it is interesting to note here that I believe Senator Taft and I are about the only men here, including the witness, that are not professors; Professor Morse, Professor Smith, Professor Thomas, Professor Pepper, Professor Douglas, Professor Humphrey, and Professor McCabe. [Laughter.]

Back in the old days when they were throwing the stones at the Brain Trusters, I was always mighty glad to see a Brain Truster. I felt like the brain trusters made a great contribution, and we certainly need them today, and this committee ought to be very proud of the fact. I am sure Senator Taft will join me, we being the only two not brain trusters, in expressing the appreciation that we have here on this committee, with this committee so much brains. [Laughter.]

Senator MORSE. I wonder if the Senator from Alabama and the Senator from Ohio will agree to be our students? [Laughter.]

Senator HILL. I want to say this: As long as I can sit here and listen to a presentation such as we have heard from our witness, and the presentation of Professor Humphrey from Minnesota, I will be delighted to be your student.

Now I want to ask this question of the doctor, who is a professor of economics, who has spent his life in the study and the teaching of economics.

So much of business seeks to drive a wedge between the farmer and the industrial worker through its propaganda agencies, its press, seeking to create in the mind of the farmer the idea that there is some hostility or antagonism between the interest of the labor union and the interest of the farmer.

Is it not a fact that as the labor union contributes to the raising of the standard of living of the industrial worker, that it follows that the standard of living of the farmer goes up too?

Mr. McCABE. It ought to go up. The opportunity is there.

Senator HILL. Does not economic interest show that they go pretty well together?

Mr. McCABE. Yes; they tend to.

Senator HILL. They tend to go together?

Mr. McCABE. Yes, sir.

Senator HILL. In other words, then, instead of the labor union in any way being adverse or hostile to the best interest of the farmer, the labor union in fighting the battle for a better standard of living for the industrial worker is really also fighting a battle for a better standard of living for the farmer.

Mr. McCABE. I think so.

Senator HILL. Good.

Senator DOUGLAS. And that is true, is it not, Dr. McCabe, for the very simple reason that the wage earners being generally in the lower income groups spend a larger proportion of each one of their dollars for food than those who were in the upper income groups?

Mr. McCABE. Yes. If the workers are not prosperous, you cannot for very long have prosperity for the farmers.

Senator HILL. Doctor, the truth is that——

Senator TAFT. And vice versa.

Mr. McCABE. Vice versa.

Senator HILL. And there are more stomachs owned and possessed and that have to be fed, among the industrial workers than there are among those who constitute business or management. Is not that true?

Mr. McCABE. Because there are more people.

Senator HILL. More people. Doctor, I knew you would get that point. [Laughter.]

Senator HUMPHREY. Senator, may I make an observation?

Senator MORSE. I want to say I think that ought to be referred to Professor Ripley.

Senator HUMPHREY. I would like to observe from my some 6 years as a worker in a drug store that there are fewer ulcers, by the way, and fewer cases of dyspepsia amongst the good hard workers. They are better customers for pork chops. The greater a man's economic and professional success, the less he has the ability to consume those heavier commodities from the farms.

Senator TAFT. Mr. Chairman, my attention has been called to a criticism of this committee which I would like to read into the record, and which I resent somewhat. [Reading:]

Senate Labor Committee hearings showed one thing. A good many Democrats in the Senate——

This is the release of the CIO publicity department, 718 Jackson Place, February 4.

Senate Labor Committee hearings showed one thing. A good many Democrats in the Senate will have to be reminded vigorously and often that the party campaigned on the clear-cut pledge to repeal Taft-Hartley and reenact the Wagner Act, and that the party won its victory on that basis.

Democrats on the Labor Committee are anti-Taft-Hartley but they could show more enthusiasm and better knowledge of the subject. At two or three times in the course of the hearing Republican members of the committee were all on hand and several of the Democrats were absent.

Now I resent that. That certainly is not true, and the Democrats have shown very clearly that it is not true, and I think we ought to answer that.

Senator HUMPHREY. I appreciate that. I might say one of the reasons that the Democratic majority on the committee has not shown all the knowledge of Taft-Hartley that it ought to is that we were all cautioned earlier in life by our mothers not to tamper with sin.

Senator HILL. I do not see how this committee, the Democratic members, could have any higher or finer testimony than that given to us by the Senator from Ohio, when we recall that the Democratic members have decreed the death of the child of the Senator from Ohio.

Senator TAFT. I remember with great pleasure that when we reported the original Taft bill out of this committee, 11 out of 13

members voted for it, including, I think, at least 3 majority members of the Democrats.

Senator HILL. The Senator from Ohio will certainly admit that that was an entirely different bill from the bill that was passed by the Senate.

The Senator from Oregon, Professor Morse, now Senator Morse, wanted to report that bill out of the committee, but he could not go along with that bill under the leadership of the Senator from Ohio. The Senate finished with the bill.

Senator TAFT. After the House finished with the bill.

Senator HILL. No, no, no. Of course the House made it much worse. I must admit that.

Senator TAFT. Well, I would be glad to go back with the Senator and consider as the basis of our discussion the original Senate bill voted for by a majority of the Democrats of this committee.

Senator HILL. Well, I want to say this: If the Senator admits he is willing to go back that far, certainly this education that has been carried on here today has been more than worth while.

Senator DOUGLAS. Mr. Chairman, now that the Senator from Ohio has read with apparently great pleasure this quotation from the CIO News that the Democratic members of this committee have not asked as many questions as the Republican members of this committee, may I say that no one could possibly take the floor from the Republican members because they have spent their entire time asking questions and monopolizing the conversation.

Senator PEPPER. We appreciate the kindness of our distinguished colleague in becoming our intermediary with the CIO. [Laughter].

I am afraid it has not helped our cause any.

Senator MORSE. Mr. Chairman.

The CHAIRMAN. I think we have done so well I was going to let you off 5 minutes early.

Senator MORSE. Mr. Chairman, I would like to make an announcement.

The CHAIRMAN. Senator Morse.

Senator MORSE. I do not know whether it has been discussed in my absence, but it is my understanding that we will proceed at 7:30 with Mr. Denham, who will be ready to come back and finish his testimony.

We released him last night with the understanding that he would be recalled today. I have looked into the matter and I think that it is very desirable that he be recalled tonight.

Senator PEPPER. I assure the Senator from Oregon that as far as my own desire is concerned, there will be plenty of time left for his questioning.

Senator MORSE. I think we will finish with him before the evening is over. Then we can proceed with Mr. Randolph.

Senator PEPPER. What about Mr. Randolph? How many questions do you suppose there will be?

Senator MORSE. Are you not about through with Mr. Randolph, anyway?

Senator PEPPER. Well, what about the other Senators? Have you questions of Mr. Randolph, other questions?

As a matter of fact, you said you wanted perhaps an hour and a half.

Senator MORSE. About an hour.

Senator PEPPER. We have 2½ hours.

Senator MORSE. I think we can finish both of them tonight.

Senator PEPPER. Suppose we take Mr. Randolph first, Mr. Chairman. That is my recommendation. Would that be all right? I do not think we will have to keep Mr. Randolph very long.

Senator HUMPHREY. We will set a time on it.

The CHAIRMAN. I wish to thank Dr. McCabe for coming. We will reconvene in the caucus room of the Senate Office Building.

(The prepared statement submitted by Mr. McCabe is as follows:)

STATEMENT FOR SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE BY DAVID A. MCCABE, DEPARTMENT OF ECONOMICS AND SOCIAL INSTITUTIONS, PRINCETON UNIVERSITY, PRINCETON, N. J.

## I

I shall concentrate in this statement on two questions. The first concerns the safeguarding of individual rights within the framework of obligatory union membership under a union-employer contract. The second is the perennial problem of national emergency strikes.

## II

In a statement prepared for this committee 2 years ago I opposed the outlawing of either the union shop or the so-called closed shop. In banning the closed-shop contract as such by interposing a period of employment of 30 days before the worker can be discharged for not joining the union, the 1947 legislation introduced an unnecessary, and almost unworkable, distinction in permissibility between the union shop and the closed shop. That 30-day requirement should, I believe, be removed. There is not sufficient difference in principle between requiring membership 30 days after hiring and requiring it a half-hour before hiring, provided membership is open to the applicant in either case.

It is that proviso of open membership that should be the condition of permissibility, not the 30-day stay. The important distinction is between the closed union and the open union, not between the closed shop and the union shop. I would permit the closed shop—that is, the requirement of union membership as a condition of employment from the start—provided that membership in the union is open to qualified applicants on the same terms and conditions generally applicable to other members and without excessive or discriminatory admission fees. However, in requiring that admission to the union be open I would not preclude craft unions in trades characterized by short jobs from adopting reasonable rules to promote job preference, analogous to seniority rules in other industries.

Moreover, I would make the open union a condition not only of permissibility of a union-security contract but also of eligibility for representative status in collective bargaining. The Wagner Act made the representative chosen by the majority the exclusive representative of all the workers in the unit for purposes of collective bargaining. I submit that the logic of the act requires that all those who are represented shall have the right to active membership in the organization that represents them.

The individual member should also have the right to retain his membership unless deprived of it by due process of law. This, too, should be a corollary not only of section 8 (a) (3) but also of section 9 (a). I would not, however, restrict the permitted grounds for expulsion to failure to tender the periodic dues or initiation fees.

Expulsion should be allowed for good cause, with the decision on the justifiability of the cause left to the National Labor Relations Board. A union should be allowed to protect itself against wrecking or subversive tactics. It should also have the right to expel workers for violation of contracts it has made for them. But by providing for appeal to the National Labor Relations Board you would insure the individual member due process.

I have one more recommendation along this line. It is that the National Labor Relations Board be empowered to investigate a charge from a substantial number of workers that the officers of the union that is their bargaining representa-



tive are not really representative of the members of the organization, and to order remedial action if it finds the charge correct. When the Wagner Act stipulated—and rightly so, I think—that an organization might be the representative of the workers under the act, it let the Government in for some responsibility in case the representative character of the officers (but not the majority status of the organization) is challenged by the members. To use another constitutional analogy, there should be a guaranty of democratic government to every union acting as a representative.

My impression is that charges of dictatorship and lack of democracy in unions have been greatly exaggerated. I think that, on the whole, the union members get the kind of union government and union policies that they want. Yet, I believe it would be to the advantage of the unions generally if there were some such provision in the law as I have suggested to bring these charges to the bar and dispose of them.

The 1947 legislation gave no help on this point. Instead of providing an orderly way of getting rid of undemocratic practices or an undemocratic situation, if any, within the organization, the 1947 act seems to suggest to the workers that their recourse is to get rid of the union as their representative by a decertification action. The members may not want to get rid of their union. But a majority may want to get rid of the officers and be unable to in fact.

The Wagner Act lifted the unions out of the category of private clubs in which the Supreme Court found them in *Adair v. United States* and *Coppage v. Kansas*. They now perform a statutory function and they are therefore subject to regulation as to their performance of it. I have no desire to weaken the bargaining power of unions. But I am greatly concerned that the rights of the individual workers, which the Wagner Act established as against the employers, shall be preserved within the organizations that the law fosters to protect the workers' rights against employers. Only if the unions are democratic both in the sense of protecting individual rights and in the sense of affording full participation in all decisions, can they rise to their full possibilities as instruments of industrial democracy in a free society.

### III

We have not yet found the answer to the problem of the strike that imperils the national health or safety. We continue to repeat that it must not happen and also that it must not be forbidden.

First, I wish to draw a distinction between a strike that immediately imperils national health or safety through cutting off food or fuel and a strike that dislocates industrial production and causes widespread unemployment. The second type of strike does not present the same problem as the first.

For this second type of strike, the economically painful strike, there is no preventive in our system in times of peace. Unless we substitute Government fixing of terms for the fixing of terms by trial by economic battle we are vulnerable to economically disastrous strikes. And such a substitution of compulsion for voluntary action in the basic industries would be a serious departure from our system of decision by agreement only.

I have hoped for some time that eventually industry and labor will get together and set up joint boards that will try to bring the parties to agreement in the face of threats of this kind, in order to save the system. Meanwhile, I think it would help us in dealing with the problem of the strike that directly and immediately imperils the national health or safety if we do not try to extend our prescription for it to the strike that means grave economic loss but not immediate peril to national health or safety.

As for the real national emergency strike, the one that directly imperils national health or safety, I said 2 years ago that it should not be allowed to go on—that the right to conduct such a strike would have to be surrendered in the public interest. I held that it was important to make that clear in a statute empowering the President to order it called off. Simultaneously with ordering the strike off the President should appoint a board to hear the merits of the dispute and fix terms binding for a year.

I did not think then, and I do not think now, that forbidding the strike and fixing the terms of employment would be enough. I assumed that the state of national dependence on the operation of the industry made it, temporarily at least, a public utility, and that therefore the prices to be charged and the allocation of the product or the services must be brought under Government regulations during the period of inquiry and the period of fixed terms of employment.

I still believe that we should not forbid a strike without at the same time setting up a tribunal to pass on the merits of the dispute and recommend, at least, a basis of settlement. The primary weakness of the present law is that it does just that. As between the appointment of a tribunal and the prohibition of the strike, I would rather give up the second than the first. If it is known that judgment is to be passed on the merits of the workers' demands, you should get a postponement of the strike, at least until the judgment has been passed, and then you have a chance for a settlement. If you don't get it, it is time to consider prohibition.

I used to believe that the emergency board with authority to recommend terms of settlement would be enough. I have had, reluctantly, to give up that belief. In 1945 the representatives of labor and of industry rejected the governmentally appointed emergency board plan. They wanted freedom to fight it out. Apparently they still do.

I am convinced that the only way we can avoid compulsory arbitration by law is for the employers and workers to accept compulsion in fact to avoid strikes that imperil national health or safety. They must recognize in fact that they must come to agreement, or agree to arbitrate, or agree to accept the terms recommended by an emergency board. If they fail and such a stoppage occurs, it will be ended by Government authority. The history of the past few years seems clear on that point.

My preference is still for a statute that provides authority in advance for calling off the strike and the appointment of a board with authority to fix terms, if and when the peril is present. I do not like the subterfuge of Government seizure and the nonstatutory injunction against the strike. Neither do I like a procedure that starts off with the injunction and makes no provision for a decision on the merits and may wind up with the strike. If I had to choose between the two, I would prefer to start with a board of recommendation than with an injunction.

(Whereupon, at 5:30 o'clock the hearing was recessed to reconvene at 7:30 p. m. this same day.)

#### EVENING SESSION

The CHAIRMAN. Before we call the first witness, I would like to have the reporter insert into the record a letter dated February 10, 1949, from James B. Carey, secretary-treasurer, Congress of Industrial Organizations.

(The letter referred to follows:)

CONGRESS OF INDUSTRIAL ORGANIZATIONS,  
Washington, D. C., February 10, 1949.

HON. ELBERT D. THOMAS,

*Chairman, Senate Labor and Public Welfare Committee,  
United States Senate, Washington, 25, D. C.*

DEAR SENATOR THOMAS: There has been brought to our attention a purported statement of John Williamson, labor secretary of the American Communist Party, addressed to your committee and apparently calculated to present the viewpoint of American labor on the Taft-Hartley law, which is now a matter of consideration of your committee.

The Communist Party statement attempts to place the party in a legitimate alinement with the forces of organized labor. This of course is wholly false. The Communist Party does not speak for organized labor, its claims to the contrary notwithstanding. It speaks only for itself and the foreign interests which it represents.

I do not propose to deal with this statement in any great detail. I merely point out that the CIO resents the intrusions of the Communist Party into the hearing on repeal of the Taft-Hartley law, when it cloaks that intrusion under a false guise.

Your committee might just as well realize that the stated position of the Communist Party too often reflects, not its real aim but quite the opposite. The truth happens to be that the Communist Party abroad—and I have been over there on a number of occasions recently—has found the Taft-Hartley law its principal weapon in misleading the workers of Europe into the belief that

American organized labor and American Government can afford them no help or protection against the onslaught of those who hate and fear organized labor. The Communist Party therefore seeks not the repeal of the Taft-Hartley law but the retention of it because of its efficacy in the Soviet campaign to take over the organized labor movements in the world.

The workers organization of Soviet Russia are today being operated under a Communist version of the Taft-Hartley law. The Communists have demonstrated the efficacy of such legislation in depriving workers of their right to strike, their right to seek improvement in the living standards of the Russian people, and even their right to question a Communist decision, so regulated by government that they become helpless pawns.

I urge your committee to keep these facts clearly in mind as you consider the proposed legislation now before you.

It is an effrontery for the Communist Party, which has done so much harm to the cause of labor, to attempt to speak for labor as does this manifesto by John Williamson. The CIO wants it made clear that the party's long record of anti-CIO, antilabor activities clearly proves that the Party does not speak for labor. Any delegations sent to express the views set forth by Williamson are designed to harm, not help, the cause of labor.

I make this statement for the record.

Sincerely yours,

JAMES B. CAREY, *Secretary-Treasurer*.

The CHAIRMAN. Mr. Denham, please.

#### STATEMENT OF ROBERT N. DENHAM—Resumed

MR. DENHAM. Mr. Chairman, may I make a very, very brief statement at this stage?

The CHAIRMAN. Please be seated, Mr. Denham.

MR. DENHAM. I just want to thank the chairman and members of the committee for the sincere and extreme courtesy and consideration they have shown me in this hearing here.

By way of explanation, I have been under doctor's orders to restrict my activities, and if I seemed to "cave in" a little last night, and possibly get out of control, I want to apologize to the Senators and to the members of the committee.

The CHAIRMAN. It is perfectly all right, Mr. Denham, and I hope if you find yourself ill at ease again, you will send another note or make a signal.

MR. DENHAM. I am quite sure that that will not happen again, sir.

The CHAIRMAN. Senator Morse, please.

Senator MORSE. Mr. Denham, I do not expect my examination to be very long, and I want to say at the outset of my examination that what differences I have with the law or with the general counsel's office are over the provisions of the law and not over anyone who may occupy the position.

MR. DENHAM. I have understood that those differences have existed for quite some time, and they are fundamental, Senator.

Senator MORSE. They existed before I knew who was going to be appointed as general counsel. As the debates in the Senate will show, and as a general statement, prefacing most of my questions, I think you know, and for the record I want to state, that my primary objection to this section of the Taft-Hartley law is the separation of power, giving to the general counsel, whoever he may be, what I consider to be a tremendous power, which you have yourself testified is true. I hold to the view that in the field of administrative law, that amount of power should not be given to any individual, I care not who he is; and

so, may I assure you that my questions are directed only to questions of law, to bring out, as best I can, a record of my point of view in regard to this matter.

Mr. DENHAM. In that regard, I do want to say, and I have not had the opportunity to say it yet, that I personally did not seek the office of general counsel. I was requested to take it. I was perfectly happy where I was at the time.

I was asked by the President to take this job, and I was advised by him that he recognized it was a tough job. He said that he had vetoed the law (I think I am not going outside of the bounds of propriety in these statements); further that he did not like it, but it was the law of the land; it was on the books; he expected me to administer it firmly and thoroughly, and in accordance with its written and apparent intent as Congress expected it to be administered and applied.

I have tried to do that; I have tried to remain away from all partisanship, all bias and prejudice, and my staff, in my opinion, has done an excellent job in keeping in the middle of the road and in applying the act in that fashion, sir.

Senator MORSE. I want to say, Mr. Denham, that when a man is appointed general counsel to administer any law it is his duty to administer it in accordance with his beliefs as to what duties the law imposes upon him. As you well know, before the debates on the floor of the Senate, indeed prior to the final adoption of the law, I made very clear that if the bill should be adopted, I would hold out for its strict enforcement because I do not believe in putting laws on the books and then winking at them.

We may differ as to our interpretations of the law, or as to policies that you may have developed in carrying out what you consider to be the duties of your office, but we certainly do not differ about this fundamental duty of enforcing the law as we see the law or think the law to be.

Mr. DENHAM. I thank you, sir; and I just want to be able to get that statement before the committee.

Senator MORSE. Now, in my questions tonight, Mr. Denham, I intend to make each question as brief as I can; I want you to answer them in your own way, but it is not my purpose to prolong this examination and engage in long comment on these problems.

At the same time, I do not want that suggestion to cause you in any way to shorten any statement that you want to make. I only urge that we be as brief as we can be and still do justice to whatever point of view you want to express.

I want to refer, first, to section 8 (c) of the Taft-Hartley law, which is the free-speech section.

The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this act, if such expression contains no threat of reprisal or force or promise of benefit.

Early in your testimony you and I were discussing a hypothetical which we did not get a chance to complete, because I was talking on some other Senator's time, and I want to restate that hypothetical: Suppose that on Monday employer A says to employee X, "I don't think you should join the union. I advise you not to join the union."

On Monday night X joins the union. On Tuesday afternoon the

employer calls him into his office and says, "X, go to the time clerk and get your time and check."

Subsequently the union files an unfair labor practice against employer A, and seeks to offer as evidence the conversation which took place between A and X on Monday.

Could that evidence, evidence of that conversation, be introduced in the case?

MR. DENHAM. Going back to our previous colloquy on that same subject, Senator, and I am now putting myself in the position of a trial examiner, which I have occupied on a number of occasions, there being no evidence of any reason for the discharge of that man, no excuse for it in the form of reduction in force, misconduct, something of that sort, I, as a trial examiner, would admit it.

Senator MORSE. What would you think would happen on appeal?

MR. DENHAM. I think I would be affirmed on appeal because inferentially, there is a sort of tail to this comet, which goes back, and would carry, should be allowed to go back and give to that remark of yesterday, the threat of reprisal, which followed. It is rather difficult to explain, sir, offhand, but my innate sense of justice just tells me that there just simply could not help but be a connection. It is a connection that should be allowed to come before the Board.

Senator MORSE. Where is the threat?

MR. DENHAM. The threat is in the accomplished—the threat is not inherent in the words themselves, as they stood on yesterday, but in the tomorrow or today, when the man is fired. That being the only circumstances that surround his discharge, the two immediately tie themselves in, one to the other. So that tomorrow when employee B who has seen employee A go through the colloquy with the boss and the subsequent discharge. Then the boss says the same thing to him. It is, I think, only human nature for that man to say, "Well, he did not say anything about it, but bearing in mind what happened to my friend Bill yesterday, he is telling me if I do not get out of that union tomorrow I am going to be fired."

This thing that we have to deal with here, sir, is a matter—this matter of labor relations, industrial relations, is something to which no one has yet been able to invent a slide rule to measure it.

Senator MORSE. I agree to that.

MR. DENHAM. It is human relations, and no two human reactions are always the same.

Senator MORSE. I agree to that, Mr. Denham, but I want to discuss the question more closely, if I can. I am seeking to get your view as to what this language "or be evidence of" means in this law, if you can introduce the conversation of the employer on Monday in my hypothetical.

Now, let me vary it. Suppose on Tuesday he said, "X, go to the time clerk and get your time and check because I have decided to hire a very good friend, the son of a very good friend of mine, who lives across the street."

MR. DENHAM. There again, I would want awfully much to put that conversation of the day before into the pot and stir it up and let it be a part of the pudding.

Senator MORSE. I want to put it in; I wanted to put it in by a proposal I had in the Morse-Ives bill, but they took it out.

MR. DENHAM. I am perfectly willing, Senator, to go along with you, on the proposition that section 8 (c) could be rephrased. Perhaps, some of the perfectionists who are available to the committee, and probably are on the committee, can do a better job of it than what we have here.

As a trial examiner, sir, I would feel that the circumstances which you have related would make me reach the conclusion, I would reach the moral certainty, that there was a discrimination there.

SENATOR MORSE. Would this be a fair statement of your view, if you would be willing to have this section revised: that it ought to be revised by language which would permit of the introduction in evidence of the conversation which takes place between employers and workers for the consideration of the trial examiner, and subsequently of the Board, to determine whether the conversation explains an act that might be an unfair labor practice?

MR. DENHAM. Senator, that is not very far off from the rule that the Board had adopted before the Taft-Hartley Act had been enacted.

SENATOR MORSE. That is exactly my point, Mr. Denham. In the language of the Morse-Ives bill, I think we set out the rule which the Board had already adopted, and I think we can state it this way: that the conversation or evidence of the conversation can be introduced for a judgment subsequently to be rendered on whether or not that conversation constituted, in fact, a threat or an intimidation, or explained the employer's motive in making the discharge. The difficulty with the language in the law, as I see it—and I infer from your statement to the effect that probably it would be a good idea to consider revising it to make its meaning perfectly clear, that you agree—the difficulty with the language, is that it is of a mandatory nature. It says:

The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice.

Now, it seems to me that that is just about as exclusive language as you could pen, to carry out the intent, which I am satisfied existed in the minds of the ones who drafted the language that was incorporated, that no evidence of conversation under such circumstances should be introduced, and I think that is unsound.

MR. DENHAM. May I quote an observation from one of my many friends among the trial-examiner group which was very recently made. We were talking about the application of the law in the new climate that we find ourselves in. He said, "You know, Bob, it is almost impossible for us to find an 8 (a) (3) discrimination any more in view of section 8 (c) of the act."

That may have a great deal to do with it. Now, the trial examiners in the main sincerely attempt to take the facts, as they are laid out, and put them together so as to really find out what the true thing was. Sometimes we have to engage in something that some legalistic lawyers might call legalistic legerdemain, but in the main, we pretty well arrive at the correct conclusions. I am far from prepared to quarrel with the Board's rule which was adopted prior, which was in vogue prior to June 23, 1947; that while the employer is not guilty of an unfair labor practice by the mere act of talking to this employees about the undesirability of labor unions. Nevertheless, when we are

considering a number of adverse elements of conduct by the employer, we are entitled to put that one in the pot and consider it with the rest as a part of the seasoning.

SENATOR MORSE. Is it not true, Mr. Denham, that in other phases of the law, where a court is called upon to render a judgment as to motive, that we permit the introduction of evidence of conversation as a basis for an inference as to what motive may have existed?

MR. DENHAM. It is my recollection, from my previous practice, that anything which is a part of the *res gestae* is permissible. I think I would say this can very well be regarded as *res gestae*.

SENATOR MORSE. Have you had any cases to date in which the court has given an interpretation that such a conversation as is found in my hypothetical could be admitted and would not be in violation of this "evidence of" language in section 8 (c)?

MR. DENHAM. I do not recall any. Mr. Findling and Mr. Johns are here. They are the top men in our legal department, and they tell me that they have none.

There have been very few cases, by the way, sir, that have gotten to the courts under the Taft-Hartley Act.

SENATOR MORSE. I would submit that on the basis of such a conversation and observation as I have made, there would seem to be the general impression on the part of both employers and union officials that that section does estop the introduction of evidence of conversation.

MR. DENHAM. I think the Board has pretty well taken that position, too, sir.

SENATOR MORSE. I make the further comment that, as far as I know, this is the only place in the world that I can find any comparable provision which denies to a judicial tribunal the right, when it is called upon to make a finding as to motive, to take into account the act of conversation. Speech is an act; it is as much an act as my lifting the ash tray is an act, in the eyes of the law. Why we should have language that denies to the worker the right to come in and show evidence that the conversation took place, and from which the Board might very rightly draw an inference that the employer's motive for the dismissal was that the worker did not follow his advice of not joining the union, is beyond me.

I think in that sense it is discriminatory, and one of the amendments that I shall offer will change that rule.

MR. DENHAM. When that material goes into a record, and is given its fair and appropriate place in the evidence, in determining the weight of the evidence, personally it is my feeling that it should be there, too, sir.

But the law is here as it is written, and we have had to interpret it as it was given to us, and we have applied it as it was given to us.

SENATOR MORSE. That is all I want to bring out on that point.

When taken into account the additional factor that the Morse-Ives bill and the final bill, for that matter, clearly spelled out what the rule of evidence was going to be in regard to judicial review, section 8 (c) is even more discriminatory. The court was specifically instructed, under the law, to look at the record in its entirety, taken as a whole, and it seems to me that in view of this safeguard it is much worse to have such a discriminatory provision as is contained in this particular language of section 8 (c).

Now, I turn to another matter, Mr. Denham. Under section 10 (j) of the present law you, as general counsel, through delegation from the Board have discretionary power to apply for an injunction in an unfair-labor-practice case once a complaint has been issued.

I am concerned about this whole injunctive process, and it is going to be pretty difficult for anybody to convince me that we ought to make much use of the injunction in any phase of labor disputes. I am particularly concerned about the length of time that these injunctions, if granted, are in effect before there is any determination as to the merits of the unfair labor practice, and I say that because you and I know that the passage of time in labor disputes can become a very effective weapon of advantage for the employer. Quick decisions on the merits are what we ought to seek in settling labor disputes.

Would you, therefore, Mr. Denham, for this committee, if you can at this time, in a general way state what your record shows as to the average length of time that these injunctions remain in effect under 10 (j)?

Mr. DENHAM. I have some figures.

Senator MORSE. Is it already in the record, Mr. Denham?

Mr. DENHAM. I do not think so. If I may ask the indulgence of the committee until I can look through some of this mass of material that we have—

Senator MORSE. If you have a compilation of the statistics that would show how long they have remained in effect on the cases that have been handled thus far, I would just ask permission that they be filed in the record, because all I am seeking—

Mr. DENHAM. The information that I have, Senator, is not applicable solely to injunction cases.

I requested our Statistical Division to prepare for me some material on the matter of the lapse of time in the handling of complaint cases under both the Wagner Act and under the Taft-Hartley Act; and I have this material before me. This goes, I think—this just covers the month of December.

In 19 cases which were a combination of the old Wagner Act cases carried over into the Taft-Hartley era, there was a lapse of 145 days from the filing of the charge to the issuance of a complaint. I will get to your other answer, if you will pardon me for going through this routine.

Senator MORSE. Go ahead.

Mr. DENHAM. In 21 cases, where complaints had gone to hearing, there was a lapse of 19 days from the filing of the complaint to the close of the hearing.

In 12 cases where intermediate reports were issued during the month of December, there was a lapse of 110.5 days from the hearing, the close of the hearing to the issuance of an intermediate report.

In 19 cases, which were the Wagner Act cases carried over into the Taft-Hartley era, on which the Board issued decisions, there was a lapse of 215 days from the date of the intermediate report to the decision, which makes a total of 519.5 days from the filing of the charge to the issuance of a decision by the Board.

Now, then, in the matter of Taft-Hartley cases during this same month, and this is December, there were 17 cases considered—I have not consulted with the Statistical Department, and I am quite cer-



tain these are not selected cases, but they are certainly intended to be an over-all cross section, at least; in 17 cases, there was a lapse of 137.5 days from the filing of the charge to the issuance of the complaint, as against 145 days in the previous category.

From the issuance of the complaint to the close of a hearing, in 18 cases there was a lapse of 40 days as against 49.

From the close of the hearing to the issuance of an intermediate report by the trial examiner, in the Taft-Hartley cases—there are eight of them under consideration—there was a lapse of 100 days against 110. There were only two cases apparently which were Taft-Hartley cases, on which the board issued decisions during that month, and the lapse from the intermediate report to the decision was 170 days against 215 days, or a total of 449 days.

Now, these are the over-all cases which included those which had gone through the injunction process, and some that had not.

So I am just not able to give you a segregation.

The priority that is provided for cases that come under the injunction process unquestionably would have reduced those figures tremendously.

I recall, for instance, in the NMU case, there was no injunction there, but in the Boeing case there was an injunction applied for and denied.

Senator MORSE. Let me interrupt, Mr. Denham. I am glad to have that testimony, and have the account of the over-all time consumed under the Taft-Hartley Act and the Wagner Act. But, of course, I am directing my attention to this question of the injunction. The Wagner Act did not have an injunctive process, and under 10 (j) no priority is required under Taft-Hartley. There is nothing in 10 (j) that says that you have to give priority, that the Board has to give priority to a case under an injunction under 10 (j).

Mr. DENHAM. Well, we have sort of carried the priority provisions of 10 (j) over to 10 (1), as far as the general counsel's office is concerned.

Senator MORSE. That is the trouble—I do not mean with you, Mr. Denham—that is the trouble with the law, that kind of exercise of discretion; let us get it clarified within the law. There is nothing in the law that requires priority under 10 (j), and I can end this question if you will have your staff supply the committee with a memorandum listing all cases in which 10 (j) injunctions have been granted.

Mr. DENHAM. I have it before me right now.

Senator MORSE. All right, we will have it in the record. We want to know how long they have remained in effect, and if still in effect, what the status of the case is with respect to the merits of the alleged unfair labor practice.

Now, if you will prepare that memorandum for the record, it will give us the facts we need when we come to grapple with this whole question of injunctions.

One of the things that is troubling me is that under 10 (j) there is a danger that there will be such a lapse of time while the injunction is in effect as to do irreparable damage to the union. Although I do not like the injunction process at all, nevertheless if we are going to have it, then, of course, speed is what I think ought to control in those cases.

Mr. DENHAM. May I indulge myself by reading into the record two short paragraphs of the rules and regulations pertaining to the handling of 10 (j) injunctions. This is section 203.79.

Expeditious processing of section 10 (j) cases, subsection A:

Whenever temporary relief or a restraining order pursuant to section 10 (j) of the act has been procured by the Board, the complaint which has been the basis for such temporary relief or restraining order shall be filed expeditiously, and the case shall be given priority by the Board in its successive steps following the issuance of the complaint (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all other cases except cases of like character and cases under section 10 (1) of the act.

The next section, B of that section, is as follows:

In the event the trial examiner hearing the complaint concerning which the Board has procured temporary relief or restraining order pursuant to section 10 (j) recommends a dismissal in whole or in part of such complaint, the regional director shall forthwith suggest to the district court which issued such temporary relief or restraining order the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

Now, it so happens that only three 10 (j) injunctions have been issued. One was a restraining order obtained against the General Motors Corp. at the instance of the UAW-CIO. That was entered on January 31, 1948. It was continued by consent of the parties, and was dissolved by consent of the parties in June of 1948, after having been in effect some 5 months.

Then, came the ITU injunction under 10 (j), which was entered on March 27, 1948, as a result of what we conceived to be a threat to practically shut down all of the printing of the newspaper business of the United States.

You heard a great deal about that, and I do not think I have to go into detail on it. The hearing was held in April by the trial examiner, and closed in April. The injunction was, as I recall it, obtained in the middle of the hearing. That injunction still is in effect and, as you know, there has been a contempt order entered by the court after a very extensive hearing on the facts.

The third one was obtained against the Mine Workers and Mr. Lewis in connection with their various demands against the captive mine owners.

That was entered on June 6, 1948, and was dissolved in July of 1948 by consent of the parties.

There are no 10 (j) injunctions outstanding except that which concerns the ITU, and none that have been in existence except by consent of the parties beyond those that I have mentioned.

There is a combination of 10 (j) and 10 (1) injunctions in upper New York State. A petition was filed involving the teamsters, and the general picture of the over-the-road express operators in upper New York State at that time. It was a rather difficult situation and required drastic action then. It fell in both categories, was obtained January of 1948, and is still in existence. It has been heard by a trial examiner but not yet determined by the Board.

Senator MORSE. Are you surprised that so few injunctions have issued under 10 (j)?

Mr. DENHAM. No, sir; I announced my policy on that, Senator, at the very beginning of the picture. There were literally dozens and dozens of employers and unions who came into my office demanding

that we petition for 10 (j) injunctions in connection with their controversies. I announced then that I simply would not utilize that very extensive power except where there was an unusual situation which affected adversely a substantial segment of the people, of the public. I would not use it in connection with a purely private matter in which the public had only a very incidental concern. That is the basis on which we have gone.

Senator MORSE. Did you form the impression from the employers that requested the issuance of such injunctions that they had the right to have such injunction issued under 10 (j) ?

Mr. DENHAM. Well, they have come into that office with that thought, but they went out with a very different impression.

Senator MORSE. And their failure to get a 10 (j) injunction issued or a request made for it, was based on your exercise of discretion which is vested in the general counsel under this act ?

Mr. DENHAM. That is quite right, sir.

Senator MORSE. It is possible that if another man were sitting as general counsel, that many of the requests for the issuance of a 10 (j) injunction might have been granted had he followed a different policy from yours.

Mr. DENHAM. I think it is entirely a matter of the personal policy of the person in whom the discretion is vested. There is no question about it. I just do not happen to believe in utilizing the injunction court for trying unfair labor practices.

Senator MORSE. I understand, and I mean this is not any criticism; I am just pointing out the power.

The fact is then that whether or not a 10 (j) injunction will issue or a request for it will be made dependent upon the point of view in respect to the use of the injunction held by whatever person occupies the office of general counsel.

Mr. DENHAM. You are absolutely right, sir. It is a broad discretionary power which rests in whoever sits in that particular chair. Of course, if we look at it from this point of view, in the last analysis we are up against the same situation that we are always up against in any injunction proceeding, and that is the necessity for convincing the court that an injunction is necessary and desirable. That always is a condition of the act.

Senator MORSE. I am simply talking about that step under the act in which the general counsel himself has power to exercise the discretion as to whether or not an injunction will be sought.

Mr. DENHAM. That is right.

Senator MORSE. Then, Mr. Denham, if an employer comes in and thinks he is entitled to have his request for an injunction under 10 (j) granted, and the general counsel disagrees with him, is there anything he can do about it ?

Mr. DENHAM. Not a thing in the world that I know of. He can file his charges, and they would be processed in the usual manner.

Senator MORSE. There is no one to whom he can appeal over the exercise of the discretionary judgment on the part of the general counsel.

Mr. DENHAM. I do not think there is.

Senator MORSE. I do not think so either.

Mr. DENHAM. In view of the delegation of authority and the limitations that would be normally placed on the Board by virtue of the provisions of the Administrative Procedure Act.

Senator MORSE. I think you are quite right and that was the purpose of the question, and I appreciate the answer. I do not think there is any other answer that you could give except that we have vested in the general counsel, after all, the unreviewable authority to determine whether or not an employer's request for an injunction, that an injunction be sought, should issue.

Now, to another subject, Mr. Denham: The other day you testified, and I do not want to have a prolonged discussion as far as my examination is concerned, of the ITU case. I only made this note on a bit of testimony of yours the other day.

Mr. DENHAM. I beg your pardon, Senator, are you interested in these time-lag figures that I have referred to you?

Senator MORSE. I thought we agreed that they would be in the record.

Mr. DENHAM. I have read some of them. The time-lag figures with reference to representation cases I have not read into the record, but if you desire to have these, I will be glad to have them.

Senator MORSE. We will have them inserted.

The CHAIRMAN. Without objection, they will be received.

(The document entitled "Time Elapsed in Processing Unfair Labor Practice Cases, December 1948 Actions," is as follows:)

*Time elapsed in processing cases, December 1948 actions, unfair-labor-practice cases*

Stage <sup>1</sup>	NLRA and LMRA cases		LMRA cases	
	Number of cases	Average days	Number of cases	Average days
Days from filing to complaint.....	19	145.0	17	137.5
Days from complaint to hearing closed.....	21	49.0	18	40.5
Days from hearing closed to intermediate report.....	12	110.5	8	100.5
Days from intermediate report to decision.....	19	215.0	2	170.5
Total days, filing to decision <sup>3</sup> .....		519.5		449.0

REPRESENTATION CASES

Days from filing to notice.....	130	49.2	129	49.0
Days from notice to hearing closed.....	91	14.7	89	14.6
Days from hearing closed to board decision and direction of election.....	113	73.8	112	73.6

<sup>1</sup> For each stage the average days is computed for cases completing the stage during the period.

<sup>2</sup> Because of lack of uniform time intervals, a weighted average rather than a median was used for this item.

<sup>3</sup> Based upon sum of average time required for current rate of completion in each of the above stages, viz, it would take 449 days for a new case filed to result in a decision.

Source: National Labor Relations Board, Division of Administration, Administrative Statistics Branch, Jan. 19, 1949.

Senator MORSE. In your testimony the other day you pointed out, certainly with my complete approval, that you felt that your office should keep to a minimum any interference with the internal affairs of the union.

Now, as I understand it, the members of your staff have attacked and raised questions in regard to some 30 rules of the ITU, claiming that those rules are illegal under the Taft-Hartley law, and claiming that an insistence on the part of the ITU to enforce those rules would amount to acts of restraint and coercion against employees.

On what basis do you reconcile the interference with the details of the rules of the ITU under the Taft-Hartley law?

Mr. DENHAM. Senator, the ITU situation is a very broad one, one in which I have had to look at only from its broad aspects. I just simply have not had the time and the opportunity to go into the details of it.

Let me give you my reaction to it and then Mr. Johns or Mr. Findling, who have handled the litigation in connection with it, may enlarge on it if you desire.

It has been my understanding or concept growing out of the ITU cases that came before the Board even before the Taft-Hartley Act—and that goes way back to 1938 when I happened to hear a case down in New Mexico in which the ITU was involved—that these rules which the union makes in the last analysis are the rules and regulations upon which the owner operates his plant.

Senator MORSE. There are also rules in which the union regulates the union members. They are rules which, after all, are adopted in accordance with democratic processes within the union, even to the extent of electing the union officers under the duty to enforce the rules against the employees who are members.

My question goes to this: When your office goes so far as to seek to investigate and raise questions about the internal rules of the union applied to the members of the union by the officers of the union under the mandate, the democratic mandate of the union to enforce the rules, are you not then truly meddling with the internal affairs of the union?

Mr. DENHAM. As long as the internal affairs remain internal and do not come outside of the union hall, I think then there may be some just ground for a criticism of that sort.

Senator MORSE. Excuse me just a second, if you will permit. That raises a question then of judgment in each individual case as to whether they remain in the union hall or outside the union hall.

Mr. DENHAM. Not in each individual case, Senator. As I say, I am speaking very generally on the ITU matters; I have had to take the advice of those who know much more about it.

Senator MORSE. Let us consider a hypothetical irrespective of the ITU, which is just as good, because it goes to the question of just how far you should go in the exercise of your discretion, keeping in mind my general opposition to the idea of vesting in any office such discretion as yours has.

To what extent should you be allowed to go in rendering a judgment as to whether or not the application of the union rule adopted by the members of the union, or application upon the members of the union by the officers of the union, is a matter that pertains to something within or without the union?

Mr. DENHAM. I doubt very seriously, sir, if I could really give you an apparently intelligent reply to a question put as broadly as that. There occurs to me, for instance, such situations which are wholly internal in the union, of the existence of a union shop, the discovery

by the members of the union that X and Y and Z have their dues paid up, have been attending meetings, have conducted themselves in an orderly manner, but nevertheless are out soliciting the employees to join up with union X or some other union, with the idea of a substitution of representative at the end of the contract period, which probably is 2 or 3 months away. That is dual unionism, one of the greatest crimes in the eyes of the union men, most union men, that can be committed. Until the Rutland Court decision of the Board and subsequently the Wallace case, it was a crime which resulted in the man being immediately expelled from the union and discharged from his job.

The Board has held in the Rutland Court case and in many cases following it, and the Supreme Court has sustained it in the Wallace decision and in other decisions, that action of that sort by the Board, notwithstanding the existence of a closed-shop contract, is not justifiable, that an employer who fires a man knowing that he has been expelled from the union because of his effort to bring about a change in the bargaining agent at the end of the contract period is responsible for that discharge and must replace the man and pay him his back pay.

Senator MORSE. I understand that, Mr. Denham, but let me put my question to you.

Mr. DENHAM. There is a sense of meddling in the union's affairs, sir.

Senator MORSE. Let me put the question in relation to the power of your office. It is your interpretation that under the powers of your office you have the right to exercise the discretion in reaching a decision as to whether or not a particular rule of the union adopted by the union, binding upon the members of the union, amounts, in fact, to a coercion of the employees. You have that—your interpretation is that you have that power under the Taft-Hartley Act.

Mr. DENHAM. I think we go considerably beyond that in the ITU case; for instance, we went very much beyond that.

Senator MORSE. I am not taking that step yet.

Mr. DENHAM. Yes, sir.

Senator MORSE. You have the power.

Mr. DENHAM. I am not willing to subscribe to such a broad statement as that, sir.

Well, as a matter of fact, in handling the matters that come before us, while I like to think of things in terms of their application to precedent, we, all of us, in the last analysis handle them on a case-by-case basis. I do not think that you can make a broad applicable rule.

Senator MORSE. Well, let me put it this way, Mr. Denham: I care not what hypothetical you assume. Assume the most favorable hypothetical you want to as far as your office is concerned. My question is addressed to the question of the power of your office, and it is this: If the facts are as bad as you believe them to be, in relation to a union rule adopted by the union, for application to the members of the union, you assert that as general counsel you have the right to intervene in such a case on the ground that it constitutes coercion of the employees of the employer.

Mr. DENHAM. Senator, I still cannot subscribe to the general statement that we have that position.

Senator MORSE. Have you done it in the ITU case?

Mr. DENHAM. I have no recollection of having done it in the ITU case or in any other case.

Senator MORSE. Have you raised any question in the ITU case as to whether some of the rules of the union constitute coercion of the employees?

Mr. DENHAM. When you are talking about—we have raised the question of the ITU's insistence: Firstly, upon a union security provision in a contract which is contrary to the provision of the law; secondly, to the union's position that they will not execute a contract, but their insistence on setting up their conditions of employment, all of which is contrary to the Supreme Court decision in the Heinz case; and thirdly, to other provisions which they have made, and which they are attempting to put in as regulations thereby setting up unilaterally, if you please, the working conditions which will surround the operations of their members in the plant.

So far as whether they insist on the men taking off their hats when they come into a union meeting; or whether they have to come up and bow before the president of the union, or whether they have to do things of that sort within the union hall, certainly I know of no time we have ever had that question presented to us. I feel quite certain that were that to be presented in this form, it would be kicked out very promptly.

Senator MORSE. I do not charge such a hypothetical. I ask it again: Isn't it true that in the ITU case there are a whole series of rules in which your associates have taken the position that the enforcement of those union rules by the officers, who are duly elected by the union to enforce them upon the members of the union, constitute coercion of the employees?

Mr. DENHAM. Senator, I will have to ask permission for you to ask one of my associates who handled the details of that matter.

Senator MORSE. Mr. Findling, is that true or is it not?

Mr. DENHAM. I am not aware of it if I have, and as I say, it is one of the multitudinous details that came into the case, if it is there at all.

Incidentally, the matter is now before the Board for final decision. I would prefer not to have to discuss any of the details of the matter under those circumstances.

Senator MORSE. If you want to stop at that point we can discuss this matter, if Mr. Findling cares to, in terms of the hypothetical without reference to the ITU case; my question is directed to a matter of power, the exercise of discretion.

Mr. DENHAM. I do not think that in the operation of the general counsel's office, there has been a time when we have attempted to delve down into the operation of the union and to interfere with its internal affairs.

Senator MORSE. That answer is satisfactory. That is your position; a contrary contention is made by other witnesses and it is for them to submit proof.

I turn to another matter, Mr. Denham. At the time that you prepared material for Senator Donnell, did you take a position, either in a letter or in a memorandum, in regard to your views at that time as to the separation of functions on the part of the National Labor Relations Board?

Mr. DENHAM. I do not think I did. I have not seen the letter, the memorandum, that I wrote to Senator Donnell, since it was posted to him, and a copy given to Mr. Herzog.

I do not think that I did. I do not believe I have ever conceived of that until it made its appearance in this law.

Senator MORSE. You do not recall whether or not at that time you discussed the question as to separation in terms of setting up separate labor courts?

Mr. DENHAM. I may have done that, because I have been an advocate of separate labor courts for a long, long time.

As a matter of fact, I have been an advocate of a court system which would handle the decisions arising from our various administrative bodies, and so as to centralize them all into one appellate court. Thus we would not be put in the position of having 10 courts of appeals, possibly being called on to pass on the same subject, each one of them having a somewhat different point of view, which would finally land it in the Supreme Court.

I have always felt that if we could have a central administrative court of appeals which could serve in the form that courts of appeals do now for us, we could save a lot of time, a lot of effort, and relieve the burden of our other courts of appeals.

The CHAIRMAN. May the Chair break in here, Senator Morse. Mr. Randolph, whom we have put off three times, wants to get away tonight, and I think that he is entitled to get away because of the courteous way in which he has stood aside when other people have been here.

Mr. Denham happens to be in Washington. We can call him at any time, and some of the other Senators besides Senator Morse want to ask him some more questions, so that it will be necessary to call him again, even if it takes up all the time.

I am wondering, Senator Morse, if we cannot stop here and call Mr. Randolph.

Senator MORSE. Whatever meets with the pleasure of the chairman meets with my pleasure.

The CHAIRMAN. I think that it is a faster way to carry it out.

Senator MORSE. I would like to make one further request of Mr. Denham for a further memorandum, because of this question of rules of the ITU. Would you prepare for me or have Mr. Findling prepare for me a memorandum setting forth exactly what position you have taken in regard to the relationship of the rules of the ITU to any allegation that their enforcement by the officers of the union constitutes coercion of the employees?

Mr. DENHAM. Would you take care of that, please?

Mr. FINDLING. Yes.

Senator MORSE. Mr. Chairman, at a later date I will want to call Mr. Denham back.

The CHAIRMAN. Yes.

Senator SMITH. Mr. Denham, I assume that you have processed under the Taft-Hartley Act certain cases which you cannot have processed under the Wagner Act or under the Thomas bill?

Mr. DENHAM. Many such; yes, sir.

Senator SMITH. I am wondering if you could give us just a brief memorandum of the relevant facts in those cases, just listing what types of cases the Taft-Hartley Act covered that the Wagner or the Thomas bill would not cover, just to see the area we do get into. I am very much interested in that.



Mr. DENHAM. I have before me, Senator, a memorandum which is dated February 4, 1949, from Mr. Wells, associate general counsel, in charge of my Policies and Appeals Division, in which he has digested very briefly certain unfair labor practices preventable under the Taft-Hartley Act, not reachable under the provisions of the Wagner Act.

He has attached to that a series of what we call our policies and standards, or policies and appeals letters. These are letters which appear at odd intervals and go out to the field. They contain memoranda and comments on interesting matters that may have been raised from time to time, and upon which rulings of the general counsel have been made.

This is prepared, and it is in such form as I think meets with the idea that you had in mind, sir. You may want to look at it.

Senator SMITH. I had in mind the kind of cases that the Taft-Hartley Act covered, with a brief statement of the facts in the cases to see the difference—

Mr. DENHAM. Well, you may see, as I show you that the pages contain probably six or seven lines to a case, which is a very short digest of the facts in those cases. This is not an exhaustive one, but a few typical examples.

Senator SMITH. I did not mean to ask that as big an exhibit such as you have there be inserted in the record altogether.

Mr. DENHAM. I will leave out the policy and appeals.

Senator SMITH. Yes; just the relevant facts of the cases.

Mr. DENHAM. Would you like to have it?

Senator SMITH. Yes.

The CHAIRMAN. It will be inserted in the record.

(The document referred to follows:)

OFFICE MEMORANDUM, UNITED STATES GOVERNMENT

FEBRUARY 4, 1949.

To: Robert N. Denham, general counsel.

From: Joseph C. Wells, associate general counsel.

Subject: Prevention of unfair labor practices under 1947 amendments.

Attached is information on cases handled by the Division of Policies and Appeals involving unfair labor practices for which there are remedies under the Labor-Management Relations Act, 1947, but for which there were none under the Wagner Act. Several important cases in this category were not handled by this Division and hence are not included.<sup>1</sup> Also not included are cases arising on charges under 8 (b) (4); such cases also were not handled in this Division.

This Division has handled cases in which the 1947 amendments resulted in refusals to issue complaints that would have been issued under the Wagner Act (for instance, cases involving an employer's refusal to reinstate a former employee who had been permanently replaced while striking to compel the employer to bargain with a noncomplying union whose majority status was not in doubt). Such cases are not included.

The description of the charging party has been given in each case in which it was available in this Division's records. It has been impossible to check the formal files, in view of the fact that this memorandum was not prepared during working hours.

Although complaints were authorized in all of the attached cases, some were not issued, and some were withdrawn, because of developments subsequent to the authorizations. The cases in this category are not specified because the information is not available in this Division's records.

J. C. W.

<sup>1</sup> Such as the MMU, ITU, UMW, Perry-Norvell, and Sunset Line and Twine cases.

## RESTRAINT AND COERCION BY UNIONS

*Mass picketing*

During a strike in union mines, union members and officials visited mines employing no union members and hindered the exit of workers from the mines until they promised to stay away from work. They beat up working employees and threatened other violence. Large groups of strikers were present during these incidents. Upon charges filed by the employers, the Board issued orders under section 8 (b) (1) based on stipulations (United Mine Workers of America (Ruthbell Coal Co., et al.), 6-CB-10, 11, 13, 14; P. & S. letter No. 3, p. 9).

The unions carried on an organizational strike by means of picket lines of 50 to 100 pickets in front of each building. Some of the pickets, who had officially been placed on the picket line by the unions, uttered threats and engaged in acts of violence directed against employees. On charges filed by employees, a complaint against the unions was authorized under section 8 (b) (1) (ILGWU Local 266 (Sir James) 21-CB-42, 43; Amalgamated Clothing Workers and ILGWU (Little Champ of Hollywood) 21-CB-40; P. & S. letter No. 3, p. 9).

Between 20 and 25 union representatives invaded the company's place of business shouting that the place was on strike, went around to the machines ordering the employees to stop work and seized the work out of the employees' hands. Union organizers directed mass picketing accompanied by physical interference with and threats to employees who desired to enter employer's premises. On charges filed by the employer, a complaint against the union under section 8 (b) (1) was authorized (Tan Juan of Hollywood (Local 266, International Ladies Garment Workers), 21-CB-18; P. & S. letter No. 5, p. 11).

*Picket line activity*

During a strike at two plants, representatives and officials of the striking union stopped employees on their way to work and told them not to go to work, but to report to the union hall. At one plant four employees were forcibly taken to the union hall and detained for 2 hours and released only when police intervened. Another employee was beaten into insensibility when he attempted to go to work. At the second plant, similar acts of physical detention and assault occurred and the owner was assaulted in the presence of employees when he refused to go to the union hall to sign a contract. On charges filed by the two employers, complaints against the union were authorized under section 8 (b) (1) (Wholesale and Warehouse Workers Union, Local 65 (H. MacCanlis Co.), 2-CB-109 (E. Freibusch Co.), 2-CB-110; P. & S. letter No. 7, p. 7).

During a strike, pickets, including officers of the union, jostled, bumped, and elbowed employees attempting to enter the plant, stoned the plant on several occasions and prevented employees from leaving the plant. On charges filed by the employer against the union a complaint under section 8 (b) (1) was authorized (North Electric Manufacturing Co. (Local 951, UAW-CIO), 8-CB-7; P. & S. Letter No. 5, p. 11).

*Union threats against employees*

During the pendency of a decertification petition, the union business agent said to one of the petitioning employees, "You're sticking your neck out. You're up against a couple of thousand teamsters and you might regret this the rest of your life." On a charge filed by the employer a complaint against the union was authorized under section 8 (b) (1) (Food Driver, Salesman, Dairy and Ice Cream Workers, Local 463 (Kraft Foods Co.), 4-CB-8; P. & S. Letter No. 3, p. 8).

*Midwest piping doctrine*

At a time when an R. C. petition was pending the company entered into a contract providing recognition of one of the two contesting unions. A complaint against the contracting union was authorized under section 8 (b) (1) upon a charge filed by the other union (American Extruded Products Co., International Chemical Workers Union, Local 11, AFL), 21-CB-87; P. & S. Letter No. 9, p. 4).

*Exclusive recognition of minority union*

The company signed an agreement recognizing the union as exclusive representative, although both knew that the union represented only a minority of the employees. Thereafter the company and the union, on company premises, attempted to induce employees to join the union. On charges filed by employees a complaint against the union was authorized under section 8 (b) (1) (ILGWU (Gerry of California), 21-CC-12; P. & S. Letter No. 4, p. 9).

## ATTEMPT TO CAUSE UNION'S DISCRIMINATION

NOTE.—Where such attempts resulted in discrimination, complaints against employers under section 8 (a) (3) were authorized wherever proper. Where such complaints would have been issued under the Wagner Act, they are not mentioned below.

The union and employer entered into an agreement on September 1, 1947, which contained a hiring-hall provision. Upon charges brought by an employee a complaint was authorized against the union under section 8 (b) (1) and (2) (IATSE, Local 18 (Roslindale Holding Corp.), 1-CB-20; P. & S. Letter No. 10, p. 7).

An impasse was reached and a strike called when the company refused the union's demand for contract clauses which, in practice, would give preference in hiring to union members. Upon a charge filed by the company a complaint against the union was authorized under section 8 (b) (1), (2), and (3) (ILWU et al. (Globe Mills), 20-CB-35; P. & S. Letter No. 9, p. 9).

During contract negotiations, union insisted upon a provision under which employer would be required to hire all new employees through the union. Union thereupon called a strike to enforce its demands. On charges filed by the employer against the union a complaint was authorized under section 8 (b) (2) (Local 830, Retail and Wholesale Employees Union, CIO, Local 65, Wholesale and Warehouse Workers, CIO (Vim Electric Co.), 2-CB-66; P. & S. Letter No. 6, p. 10).

A union demanded a contract with proscribed union-security provisions and later struck to obtain the same. On a charge filed by the employer a complaint against the union was authorized under section 8 (b) (2) and (3) (Amalgamated Meat Cutters (Great Atlantic & Pacific Tea Co.), 21-CB-8; P. & S. Letter No. 2, p. 15).

A union demanded a contract with proscribed union-security provisions and later struck to obtain and did obtain the same. On a charge filed by a retail merchants association a complaint against the union was authorized under section 8 (b) (1), (2), and (3) (Retail Clerks International Protective Association, AFL, 35-CB-1; P. & S. Letter No. 2, p. 15).

An offer of employment to an applicant was withdrawn because the union stated that it "might pull" its men off the job, and that its men "might walk off" the job if the applicant were hired. Charges were filed by a rival union and the Board issued an order under 8 (b) (1) and (2) based on stipulation (I. A. T. S. E. Local 706 (Wilshire Pictures Corp.), 21-CG-38; P. & S. Letter No. 3, p. 8).

Following UA election, company and union entered into a union-shop agreement. Three employees offered to pay dues and initiation fees but were refused membership by the union. It requested that the employees be discharged. Thereupon the company discharged the three employees. On charges filed by the three employees, a complaint against the union was authorized under 8 (b) (2) (Local 1, Grain Processors Independent Union (Union Starch and Refining Co.), 14-CB-13; P. & S. Letter No. 6, p. 8).

Employer and union entered into an agreement which required all new employees hired by the company to sign a statement of policy which recited that "the company believes all employees should become and remain members in the union," and which agreement also required that "all present and future employees shall be required to pay to the union a monthly administrative fee." On a charge by the employer, a complaint against the union was authorized under 8 (b) (1) and (2) (Retail and Wholesale Employees Union, Local 830, CIO (Vim Electric Company, Inc.), 2-CB-66; P. & S. Letter No. 9, p. 7).

The union insisted that the company sign a union-shop agreement minus a provision making the agreement effective only if the union were so authorized in a UA election. The company refused and the union struck and picketed the company. During the strike, the union business agent persuaded a company driver to dump a load of coal stating that if it was not dumped "the truck would not leave the yard." On another occasion, a company driver, delivering an engine, was told by the union agent not to unload the same, and that if he continued driving for the company something might happen, "that the truck might be overturned," and that he'd not be able to get another job as he was not a member of the union. On charges of the company a complaint against the union was authorized under section 8 (b) (1) and (2) (Local 242, IAM (Gary Motor Sales Co., Inc.), 13-CC-4; P. & S. Letter No. 4, p. 10).

The union and the employer signed an agreement providing for a union-shop conditioned on the union's winning a union-security authorization election.

Though no petition for such election was ever filed, the employer fired an employee at the union's insistence. On charges filed by the employee, a complaint against the union was authorized under 8 (b) (1) and (2) (Teamsters Local 456 (H. Milton Newman); 2-CB-62; P. & S. Letter No. 3, p. 8).

Contract between company and union executed on August 1, 1947, provided that employees pay union \$2 per month for the support of the bargaining representative. Employee did not make payments and was discharged by the company at the union's request. On charges filed by the employee, a complaint against the union was authorized under section 8 (b) (2) (Local B-1436, International Brotherhood of Electrical Workers (Public Service Co. of Colorado), 30-CB-1; P. & S. Letter No. 6, p. 7).

A trades council brought pressure on the employer to fire members of a rival union and replace them with members of a local affiliated with the trades council. On a charge filed by the rival union, a complaint naming the trades council as well as its affiliated local was authorized under section 8 (b) (1) and (2) (Building and Construction Trades Council of Portland (Lloyd A. Fry Roofing), 36-CB-2; P. & S. Letter No. 3, p. 7).

#### *Effect of 102*

On June 10, 1948, a nonunion job applicant was denied a work permit by the union and refused employment by the company pursuant to the hiring, hall provisions of a May 1945 contract which was renewed in May 1948. Upon charges brought by such job applicant, a complaint against the union was authorized under 8 (b) (2) (IBEW, Local B-11, AFL, (Joseph Korb), 21-CB-75; P. & A. Letter No. 10, p. 6).

On June 24, 1948, a discharge of an employee who was removed from good standing for a reason other than failure to pay dues was requested and obtained by the union pursuant to a 1-year union security contract entered into on March 1, 1947, which was renewed on March 1, 1948, without the benefit of an election under 9 (c). Upon charges brought by the discharged employee, a complaint against the union was authorized under 8 (b) (2) (Clara-Val Packing Co., 20-CA-117, and Cannery, Warehousemen, Food Processors, Drivers and Helpers, Local Union No. 679 (Clara-Val Packing Co.), 20-CB-29; P. & A. Letter No. 9, p. 5).

#### REFUSAL TO BARGAIN

##### *As defined in 8 (d)*

Company and union entered into a 2-year renewable agreement on October 8, 1947, which provided that such agreement could be reopened for wage adjustments once during the initial 2-year term of the agreement but not before October 8, 1948. On December 26, 1947, the union submitted its demands for wage reopening and struck after the company's refusal to negotiate on wage increase on the ground the demand was premature. On a charge brought by the company, a complaint against the union was authorized under 8 (b) (3) (United Packinghouse Workers of America, CIO, et al. (Wilson & Co., Inc.), 2-CB-75; P. & A. Letter No. 9, p. 12).

#### OTHER REFUSALS

See cases listed above under heading "Union's Attempt to Cause Discrimination" for 8 (b) (3) complaints based on union insistence on illegal security provisions.

#### FEATHERBEDDING

A union demanded a contract providing that a theater employ a specified number of musicians, which it would not need, and pay them for all performances regardless of whether or not they were used. On a charge by the employer, a complaint against the union was authorized under 8 (b) (6) (Chicago Federation of Musicians, Local 10, American Federation of Musicians, 13-CB-3; P. & S. Letter No. 2, p. 17).

A union demanded and obtained a contract providing that a theater employ a specified number of local musicians which it would not need and pay them for all performances regardless of whether or not they were used. On a charge of the employer, a complaint against the union was authorized under 8 (b) (6) (Hartford Musicians' Protective Association, Local 400, AFL, 1-CB-2; P. & S. Letter No. 2, p. 17).

Union insisted upon theater hiring a pit orchestra despite the fact that a "name" band was appearing at the theater and the services of a pit orchestra

were not required. When union refused to recede from its position, theater canceled the engagement of the "name" bands and filed charge. A complaint against the union was authorized under S (b) (6) (Local 3, American Federation of Musicians (Greater Indianapolis Amusement Co.), 35-UB-4; P. & S. Letter No. 6, p. 14).

Senator NEELY. Mr. Chairman, after Senator Morse and Senator Pepper have concluded their examination of the witness, I was going to ask some questions of Mr. Denham, too, not tonight.

The CHAIRMAN. I have already announced that other Senators want to ask Mr. Denham questions, so we will ask Mr. Denham to remain alerted.

Mr. DENHAM. I will be very glad to be available at any time. I will hand this memorandum, however, on the prevention of unfair labor practices under 1947 amendments, that is the title of this memorandum, to the reporter; is that all right, Mr. Chairman?

The CHAIRMAN. Yes, that will be inserted in the record.

Mr. DENHAM. You would like to have me return when?

The CHAIRMAN. I do not know. We will give you notice. You will remain alerted until at least the 23d of February.

Mr. DENHAM. Well, I shall be in my office available at any time on short notice. Thank you, sir.

#### STATEMENT OF WOODRUFF RANDOLPH—Resumed

The CHAIRMAN. I trust that the committee will govern themselves so that they will stay within the hour and twenty-five minutes left.

Senator PEPPER. Mr. Randolph, I believe when I was questioning you today I was about to ask something about the closed shop. You heard the discussion between Mr. McCabe and me about what was the theory of the closed shop, that it indicated a preference or determination of men not to work with others who didn't share their point of view and adhere to the principles to which they adhered about what was in the interest of and for the benefit of the workers.

Is there anything you would like to say on that that would justify what is the theory of those who advocate it?

Mr. RANDOLPH. Yes, Senator, I think I can add something to that, but before I do may I refer to the last question or two that Senator Taft asked me? There was a point left rather up in the air about the matter of discharges.

I pointed out that there were two methods: One by which discharges were handled within the union and one where they are handled according to a contract provision to arbitrate the discharge cases.

He started to read the section of law having to do with that, but did not read that portion having to do with the arbitration of discharge cases, and I wanted that cleared up because the law specifically says:

When a subordinate union has made specific provision in its contract for reference of controversy over discharge to a joint agency the dispute shall be decided as provided in the contract.

At this time I would say there are practically 95 percent of our members working under circumstances where the discharges are arbitrated instead of going through the union procedure. I am afraid that point was not clear and I am happy to clear it up before going ahead with your question on the closed shop, Senator.

As I testified this morning, the closed shop has been something that has been with us from our very birth, over 100 years ago. It came about through the simple fact that union men would not work in a shop unless all were union, including the foremen, of course. Foremen didn't think about hiring anybody but a union man, and the closed shop was automatic, unquestionable, and never even considered.

It was so when we started to make collective agreements and became a part of the union rules and the union rules have always, from the time of the beginning of labor agreements, been accepted as the floor upon which other matters were collectively bargained.

Now the theory of the closed shop as it was originally conceived and the practical working out of the closed-shop provisions of collective agreements, of course, remains the same, but there had been something added to it. The added thought about it is that the employer himself benefits from the closed-shop agreement.

We have a skilled trade. We have always arranged to train additional skilled people in the trade and organized other skilled tradesmen and kept the union intact and a supply of competent people available for hiring by employers.

That service in an industry where the time element is very important has been of considerable value to the employer, and he has been able to maintain what might be regarded as a minimum force, using extra help as needed instead of having to maintain a maximum force to take care of the amount of business that would come in on his largest days.

The closed shop, so far as the union benefit is concerned, rests in having a pool of jobs where our members may be employed, our members being a mobile force, they may then work in one or another of the shops, maybe two or three shops in a week, taking up the extra work that may appear in those shops and working steadily while doing so.

It couldn't be done that way if we didn't have the closed-shop agreement. Those are economic benefits from the closed shop that accrue to both parties, both the employer and the employee.

Aside from that, the union regards it as necessary for its continued existence. If an employer is permitted to dilute the force with non-union people, with people who do not believe in unionism, he can in a period of time replace a union force with so many nonbelievers that the union has no stability because it has no opportunity to strike and win a strike. The nonunion people can be of such number as to make a strike ineffective, so that after a period of time under the provisions of the Taft-Hartley law, if it remained in effect for any particular period of time and union men remained at work in a shop where nonunion people were employed, they would lose their bargaining power.

In addition to that, there is as much feeling for the union and for the principle of unionism among our people as you will find a feeling for a particular religious sect among people who may choose one. It is a matter of principle. It is a matter of faith, that unionism is something that is necessary if we are going to retain our freedom under our economic system.

Senator MORSE. Will the Senator from Florida allow me to ask a question along the line of the hypothetical which I was discussing with Mr. Denham previously?

Senator PEPPER. Yes.

Senator MORSE. You heard my question to Mr. Denham with regard to whether or not counsel from his office sought to interfere with the application of some 30 rules of your union which you and other officers of the union by union rules are required to enforce on your members? You heard those questions?

Mr. RANDOLPH. Yes, sir.

Senator MORSE. Is it true, Mr. Randolph, that Mr. Denham's counsel have, on the allegation that your union rules or those they have attacked constitute coercion of the employees, brought legal actions against you that tended to be very frustrating and annoying and involve you in unnecessary litigation?

Mr. RANDOLPH. Yes, Senator Morse. The question of the union rules and their probable or possible effect was discussed at great length in the various cases brought against us and in the injunction case in the Federal court.

Senator MORSE. What have been some of these rules?

Mr. RANDOLPH. The general laws of the union having to do with economic conditions and the rules providing for the closed-shop right in our book of laws.

Senator MORSE. Have you found in your discussions and negotiations with the general counsel's office that once that office exercises its discretion to proceed against you in respect to these rules, there is no appeal that you can take within the organization to the National Labor Relations Board?

Mr. RANDOLPH. We are fully aware of the fact that we have no appeal from his decision.

Senator MORSE. That is your answer?

Mr. RANDOLPH. No appeal; that is true.

Senator MORSE. Prior to the passage of the Taft-Hartley law did you have relationships with the general counsel of the National Labor Relations Board?

Mr. RANDOLPH. I don't recall any. There were one or two cases that went up through the regular process.

Senator MORSE. In those cases did you have a right under the Wagner Act, if you felt that the general counsel was proceeding unfairly or arbitrarily, to have the matter brought to the attention of the full Board for determination?

Mr. RANDOLPH. Well, we didn't run into any of those circumstances. My conception of the Wagner Act was that the matter of the trial examiner's report was appealable to the Board and if the Board rendered a decision that we didn't see fit to comply with, they could get an enforcement order in court through their general counsel's activity. That is about all I know about it. I had very little use of the Wagner Act.

Senator MORSE. Is it your testimony, Mr. Randolph, that your experiences with the general counsel's office have caused you to conclude that he is empowered to exercise broad, sweeping, and unreviewable discretion as far as the filing of complaints and the seeking of injunctions are concerned?

Mr. RANDOLPH. It is not only brought to our attention that he can but it has very painfully been brought to our attention that he did, as against the International Typographical Union.

Senator MORSE. Is it your view, Mr. Randolph, that the giving of such discretionary power by law to any governmental official operating in the field of labor relations puts him in a position where he can by the exercise of that discretion do great damage to a union or to an employer?

Mr. RANDOLPH. Most emphatically so, and I believe not only great damage, I think he has the power to destroy unions.

Senator MORSE. Is it your view that any law in the field of labor relations, in respect to provisions covering employers and covering unions, should have within it adequate safeguards whereby discretionary action of officials operating under the law will be subject to review?

Mr. RANDOLPH. I think there should be such procedures.

Senator MORSE. And the action should be subject to review before damage from their exercise can be committed?

Mr. RANDOLPH. I think that is sound; yes.

Senator MORSE. One other question, and as far as I know, I will be through with this witness unless something develops later in the examination.

The other day, Mr. Randolph, I had a very able witness representing employers from the San Francisco Bay area who testified in effect that, although there has been a literal compliance with the closed-shop provisions of the Taft-Hartley law in the San Francisco Bay area, in practice the hiring policies have continued as they existed prior to the passage of the Taft-Hartley law because we are in a period of full employment where jobs are plentiful and the employers are not in a position where they have a handy labor market available to them.

Has that been your observation, generally speaking, across the country as to the continuation of the practice of hiring men as they were hired prior to the passage of the Taft-Hartley law with a few exceptions with which you are painfully aware?

Mr. RANDOLPH. I will try to be as exact as possible in my own language in order to avoid the inevitable consequences of a slip on that point, bearing in mind that I am under an injunction and everything I say that is a matter of record finds its way into the general counsel's office and usually before the judge.

Senator MORSE. Answer it in your own way.

Senator PEPPER. Mr. Chairman, I never have made any constitutional study of the question, but just as Members of Congress are given an immunity under the Constitution for what they say in Congress, it seems to me the same principle ought to apply to witnesses who appear before the Congress in response to the questions of Senators, so if anybody ever gets after you for anything you say up here, you will have a lot of fellows fighting on your side.

The CHAIRMAN. It probably will not do him any good.

Senator MORSE. I was going to add I think the law goes the other way.

Senator PEPPER. You know Congress has the power of impeachment over Federal judges. I want that in the record.

Mr. RANDOLPH. I didn't intend to either intentionally or otherwise say anything that would be any different from what I have said before in court, but I am trying to say it in the same way and not say "Yes" or "No" to your language because it isn't on review in front of me.



Senator MORSE. Answer it in your own way.

Mr. RANDOLPH. The fact is that with few exceptions the newspaper and commercial employers over the country, if they haven't been willing to make a contract giving our local unions the benefit of all of the protections that can be had under the Taft-Hartley law, have simply followed along without making any changes in their hiring practices and have made increases in wages, commensurate with the inflationary trends.

The practice of hiring, as I say, has not been changed to my notice except in two cases that I testified to in court. One I mentioned here this morning where in a small plant in Wisconsin a nonunion foreman was hired, and all the rest of the printers disappeared. The other case was in San Antonio where the president of the union called me, stating that an employer in a commercial office hired a nonunion man and he was seeking advice on what his rights were. I told him under the law he had no right to do anything about that circumstance but that my advice to him was to look into the man's qualifications and his attitude toward the union, and if he felt that he met with that test, to invite him to join the union. My understanding is that it was done and the man now is a member of the union.

With those two exceptions I know of no place where the employers have made a deliberate change in their attitude of hiring.

Senator MORSE. May I make a comment—and you check me as to whether or not it is reasonably accurate as an interpretation of the practice that has prevailed in your industry since the passage of the Taft-Hartley law.

One, in many cities and towns contracts with your unions have expired since the passage of the Taft-Hartley law; right?

Mr. RANDOLPH. Right.

Senator MORSE. Two, in most of those cities and towns satisfactory working arrangements have been entered into between your unions and the employers without any stoppage of work; right?

Mr. RANDOLPH. Right.

Senator MORSE. Three, the practice of employing the workers since the passage of the Taft-Hartley law has continued to be the same, in most cities and towns covered by my first two points, as the practices were prior to the passage of the Taft-Hartley law; right?

Mr. RANDOLPH. That is right.

Senator MORSE. Conclusion: A great many employers then have proceeded to continue what amounts in practice to a closed-shop relationship with the employees in their plants.

Mr. RANDOLPH. My conclusion is——

Senator MORSE. I am saying mine——

Mr. RANDOLPH. That they have made no changes in their own practices since before the Taft-Hartley law was passed.

Senator MORSE. No comment on this, Mr. Randolph, but I have been taken to task by some people for talking about the Taft-Hartley law as one of the causes for subterfuge in many employer-employee labor relationships. Invitation to subterfuge is not conducive to the building up of sound ethics in labor relations. Some employers have seen that in just such a situation as this the restrictions that the law seeks to impose are not fair, tested in light of their many years experience with unions where they have had amicable relations,

which relations have been disturbed or would have been disturbed had they attempted to carry out the letter of the law. Understand, I am not passing judgment, I am simply saying now that I think your situation demonstrates my point very clearly. Here we have an industry that has had amicable relationships under the closed-shop principle for many, many years, an industry that has had, I think, the best record of voluntary arbitration in the country over many years, and most of the employers appear to have been satisfied with the principle of the closed shop. Therefore, the Congress of the United States ought to consider for a long time before it decides to continue a provision of the law which in my judgment has been productive of so much subterfuge and bootlegging in the field of labor relations.

I think you know exactly what I mean and I think your testimony has been very helpful if this committee really wants to look on how the law operates in fact. We have heard a lot of nonsense, in my judgment, over the past few months to the effect that the Taft-Hartley law has done no harm. If the people will take the time to study the effects of its various provisions on labor relations in this country, they will see just the type of harm that your testimony points up and that the testimony of the San Francisco witness pointed up. He said in effect, "Why, yes, in practice we are continuing to hire our employees as we did before the Taft-Hartley law was passed," and then was frank enough, for he is a very frank and honest man, to point out, "We are confronted, however, with an era of short labor supply." That raises for this committee the warning, "Look out as to what the effects of the law will be when unemployment starts walking the streets of America."

Then you will see the costly nature of the Taft-Hartley law with all of its legalistic provisions, which permit of the type of prolonged litigation which the general counsel, I think, has amply testified to in his testimony thus far. There can be no doubt that the legalistic procedures permitted by the law will be used when unemployment walks the street and thus I say to my critics again tonight: I know of no law on the books that has in it more potential danger of labor strife in the country than the Taft-Hartley law.

THE CHAIRMAN. The Chair would like to add just to that statement what he has said so many times. Whenever the Congress of the United States passes a law which is in reality an open and continuous invitation for people in the country to break the law, we do something which ultimately ends in bad government. Excuse me, Senator Morse.

Senator MORSE. I completely concur, Mr. Chairman. You said it in one sentence and it took me three paragraphs to say it.

THE CHAIRMAN. Senator Pepper?

Mr. RANDOLPH. I didn't quite finish.

THE CHAIRMAN. Excuse me.

Senator MORSE. Excuse me.

Mr. RANDOLPH. I just wanted to add one more point on the closed-shop question, and that is that we have always had the belief that we had a constitutional right to work or not work collectively as well as individually, and for the Taft-Hartley law continuing a paragraph of the Wagner Act to the effect that organization is absolutely necessary for the purposes of protecting our economy, for the Government to take the position that organization is necessary and then to single out

only the individual for constitutional rights is a ridiculous retreat from the obvious necessity of a labor union having the right to do collectively what individuals have the right to do on their own.

Senator PEPPER. Well, Mr. Randolph, reference has been made to some States which have passed constitutional amendments or legislation barring the so-called closed shop. Would you say that any of those States or any large number of them are what we call industrial States, where there is a large percentage of industry and a large number of industrial workers?

Mr. RANDOLPH. It is my impression that there are few industrial States that have passed such laws. I am not aware of all of them because we have had so many laws, Senator Pepper, this past year to give attention to and so many lawyers from the General Counsel's Office to worry with, that I just lost sight of the State laws.

Senator PEPPER. The Taft-Hartley law and the United States Government kept you pretty busy?

Mr. RANDOLPH. It has taken up fully half of my time as an executive of the union during these past 16 months to give attention to the Taft-Hartley matters only, and obviously other matters have suffered in like proportion.

Senator PEPPER. I was about to ask you if it were not possible that in the States where such amendments have been passed it has been due to a false way or inaccurate way in which the issue was presented—that the issue was presented in such a way as to appear to raise the issue of individuals' rights to work and the individual freedom for the citizen, with which all are in accord? And was it made to appear that the advocates of the closed shop were opposed to those things, that they were closing the door to a worthy citizen having a right to earn a living, and, of course, everybody is against any such deprivation, and that the larger issue of greater freedoms or as great freedoms, which are involved in the matter, were not fairly presented to the public?

Mr. RANDOLPH. That is right.

Senator PEPPER. When Mr. Henry testified Saturday night, he stated there were no restrictive rules on production but that he had the feeling that there were some declines in production because of the closed shop. What do you think about that?

Mr. RANDOLPH. Well, it is obviously wrong just by the statement itself, Senator Pepper. Mr. Henry could have presented figures from many print shops if he had wanted any figures to prove the contention, but the very fact that these shops have always operated as closed shops, mind you, having always so operated, how can he make a comparison even if there was a decrease in production and lay it onto the closed shop?

Obviously, he couldn't. They have always been closed shops. So if there was the drop in production, it was not attributable to the closed shop, but I even say that he had no basis for his charge that in one or more processes he had a feeling like there was a drop in production.

You can imagine any print-shop employer, and Mr. Henry is one of them, who is interested in production; he has a lot more than just a feeling. He is going to either know whether he has got production or whether he hasn't, and I rather discount a man, a representative of the industry, coming in here with "feelings" about production.

Senator PEPPER. Is it or is it not a fact that during the current newspaper strike in Chicago members of the same local, local No. 16, were compelled under the force of the Taft-Hartley law and the direction of the commercial shop owners to serve as strikebreakers?

Mr. RANDOLPH. They were so required, Senator, and the number of ads that they had to so set ran into the thousands.

Mr. Henry's statement, and I believe Mr. Dunnagan's statement, was that there were a few ads and that it was something that they had always been doing and he mentioned the Marshall Field ad.

Now just by singling out the Marshall Field ad, in my opinion, Mr. Dunnagan disclosed the fact that he knew far more than he was willing to tell, because the Marshall Field ad is the only department store ad which over a number of years has been set up in commercial offices and then transferred into the newspaper for publication. He is correct so far as the national advertising is concerned. Much of it is set up in commercial shops, what we call agency shops, where compositors set up this national advertising for all over the country, but he is not correct as regards local department store advertising, which has always been composed in the composing rooms of the employers themselves.

It was that volume of ads numbering into thousands that were set up in commercial shops and used in the newspapers. Whether or not the newspaper said to the advertiser, "You will have to go over to a commercial shop and have your ad set up and then bring it over here and we will print it in the paper," whether that subterfuge was used or not, the fact still remains that our people were compelled to set up advertising which had been set up by our people when they worked on newspapers.

Senator PEPPER. And the workers who did set up advertising in those commercial shops for the advertisers felt that they were required to do so by the Taft-Hartley law?

Mr. RANDOLPH. They were so advised by our able attorneys and they continued to do that until they absolutely revolted and said, "We will set no more." And they said it individually and they were discharged individually, and the shops emptied within 2 or 3 days by them firing the men one after the other who refused to handle that advertising. The commercial industry was then shut down for 3 or 4 months on that act.

Now I ask again: What value is it to provide in the Taft-Hartley law that an individual may quit his job if he can't quit in concert with others and protect the standards of his trade? Obviously it is a hollow and useless right to quit individually when in this industrial civilization you can do nothing individually.

Senator PEPPER. So it is really a meaningless benefit relatively, that is conferred upon him in 506 and 502 unless he may under that same section do the same thing in concert with his fellow workers?

Mr. RANDOLPH. Yes, Senator; and if he has a right individually to refuse to do a thing of that kind, why has the employer the right to discharge him for doing what he has a legal right to do? The act doesn't protect him against discharge by an employer for exercising his legal right.

Senator PEPPER. Has it been the intention or decision of the ITU to defy or violate the Taft-Hartley law, as several witnesses here have said or intimated?

Mr. RANDOLPH. No, Senator. In our collective-bargaining policy adopted by the convention, we made that very plain and our acts have indicated that at no time have we violated that law, nor have we intended to violate it.

We have been very careful in avoiding that and again I will say that the convention adopted collective-bargaining policies and said that there should not be and will not be any attempt on the part of the international or subordinate unions to violate any valid provisions of this law or of any law, Federal or State.

So when it came to the question of accepting the general counsel's interpretation of that law or our own attorneys' interpretation of it, we were willing to put our money on our own interpretation and go through the legal procedures that would bring about a decision. But we haven't got a decision. We haven't come near to a decision and we have been enjoined under a sweeping injunction that I myself find very difficult to understand. I keep asking the attorneys: Just what does it mean? They tell me what they think the injunction means, and after a while it seems as though Judge Swygert didn't believe it meant what our attorneys thought it meant and the National Labor Relations Board, which has the only legal right to determine it, may find that the judge is wrong and that our attorneys are wrong, and that Denham is wrong and everybody is wrong but the Board. They may come out with a decision some time or other in the distant future, but in the meantime we are subject to the injunction and to have the reputation of having been cited for contempt of court.

That is a humiliating thing for us to be suffering over nothing more than a question of whether or not the procedure of a contract might discriminate against some nonunion applicant sometime in the future and whether or not a provision for the training of apprentices and a committee appointed for that purpose has a tie-breaker or not, as to whether or not the committee of two members of the union and two employers, whether they might not agree on whether this apprentice had reached a stage of competency or not, and unless there was an impartial arbitrator to determine that question we might be violating the Taft-Hartley law.

Now that is the substance of our citation for contempt, and I leave it to members of this committee, even including Senator Taft, if that is an intelligent approach to collective bargaining.

Senator PEPPER. Mr. Randolph, isn't that one of the examples of the vice of the law, that it entered like a bull in a china shop into a field where there had been delicate and perfected equilibriums built up over a period of many decades, in your case over a hundred years, and even if eventually it might not be adjudicated to have been worded so as to bring about your detriment, nevertheless, to subject your rights to such jeopardy and litigation and to such attack and assault that it has been the most grievous injury to your employees individually and collectively and has unsettled labor relations in the whole printing field?

Mr. RANDOLPH. It certainly has, Senator.

Senator PEPPER. So that isn't it also a fact that regardless of what the court of last resort might finally hold in a lot of these close cases, that the truth of the business is that aside from what it may eventually be held to do, the Taft-Hartley Act and injunctions that have been

issued under it have intimidated the whole labor union movement and their leaders and made them hesitant and timid about asserting their rights, which they have always felt they had, at least since the Wagner Act, for the furtherance of the interests of their workers?

Mr. RANDOLPH. That is absolutely true, Senator, and our own local union officials have been constantly consulting their international union as to what they may do and how they may do it to avoid that pressure. They tell me their employers are in the main desirous of getting along with the union and having no fuss about this and doing the thing they have always done and forget about all this turmoil; that they had no part in.

As a matter of fact, when I asked them, "Well, didn't your newspaper support the Taft-Hartley law?" the answer is, "Yes, they did, but they didn't know what was in it." I asked, "Do they know now?" The answer is, "No; they don't know yet, and neither do we."

The CHAIRMAN. Are they still supporting it in spite of all that?

Mr. RANDOLPH. I do not know about that. I have not had a poll, but the fact is that they are getting along with our members rather than trying to use the weapons of the Taft-Hartley law against us. But their association, the American Newspaper Association and the PIA officials are attempting by this court action and by this pressure to secure the right to use these Taft-Hartley tools against us.

Then, of course, the various employers will have something that they can use and keep the members of the union quiet and use it to keep the wages down under the idea that if you get too fresh about this thing "I have got a good handy club here I can hit you with." That is the idea of the employers generally.

They are not foolish. If they can get the advantage over the union, any union, they are going to get that advantage, and so while they are not willing to put up a fight now they are perfectly willing to have somebody fix up a nice shiny club that they can use any time they want to use it.

Senator PEPPER. Yes. Well, on the point I mentioned about the Taft-Hartley law being a psychological barrier to the assertion of their rights, I recall a good many instances in my State where union members came to me after the Taft-Hartley Act was passed and asked my opinion about whether they could individually make a contribution to a campaign fund or pay for any posters or handbills, even whether they would be permitted to take any part in an election when they were members of a union, and they were in a great dilemma to know what opinion they could get that they could rely upon.

They thought about asking our committee, asking for an opinion from the general counsel, and so on. Well, when men are threatened with the punishment of prosecution, so that they are intimidated in the exercise of their rights as citizens, you can imagine about how many times they were intimidated in the assertion of their economic rights under the Taft-Hartley law.

Now, one other thing, Mr. Randolph. The Norris-LaGuardia Act forbade employers from perpetuating the vicious practice of appealing to lifetime-appointed Federal judges, oftentimes ex parte, for labor injunctions, but if you assume that you vest in one man the power on behalf of the Government of the United States to apply for the same kind of an injunction in rather a broad category of cases, and if that man is not controlled in the exercise of his arbitrary decision or judg-

ment, and if by chance that man should become friendly to the employer or biased on their side, you have practically put the weapon of injunction back into the hands of the employer, have you not?

Mr. RANDOLPH. That is absolutely so, Senator, and we have felt and we have plenty of reason for feeling that the newspaper publishers of this country, with the access to the millions of the population in their daily papers, have a powerful influence in this country in a lot of places, and we were more than convinced of that when a group of Chicago employers, Mr. John S. Knight, for instance of the Chicago Daily News where our members are on strike and who prints the Detroit Free Press where they are not on strike, and who prints a paper in Miami where our papers are now on strike, Mr. Knight visited in conjunction with representatives of the Chicago Tribune and the Chicago Sun and the Hearst paper of Chicago, visited the office of Senator Taft.

It is referred to in our booklet attached to our written statement. When these dignitaries visited Senator Taft's office and when Senator Taft made the public statement that he did, concerning that case, and concerning that visit, and when Mr. John S. Knight published in his papers the frank statement of what they were there for, we felt most certainly that the public had an access to the enforcing agency of the country that we did not have, and that he was listening to their side of the story. When we found the attorneys for the general counsel's office asking a Federal court to force the international union to stop the payment of strike benefits to the Chicago printers, we were thoroughly convinced of it regardless of what anybody else may say.

We are thoroughly convinced that the Chicago newspaper publishers visited Mr. Taft's office and the subsequent actions of the general counsel's office with reference back to the Chicago case—the most important strike in the country in our trade—have a definite connection step by step.

Fortunately the court did not order us to stop the payment of strike benefits, but here is the position that we find ourselves in with regard to these strikes that we have. There are some things under the Taft-Hartley law that are illegal to strike for——

Senator NEELY. Mr. Chairman, before the witness leaves the point he is discussing, may I interrupt you with a question?

Mr. RANDOLPH. Yes, sir.

(At this point Senator Neely asked a question which he subsequently obtained unanimous consent to withdraw.)

Senator HUMPHREY. Mr. Chairman.

The CHAIRMAN. Senator Humphrey.

Senator HUMPHREY. I would like to say this. This is not a matter of secrecy, you know, about the so-called legislative interference, whether Senator Taft is here or whether he is not. We talked about this about 3 or 4 days ago and the distinguished Senator from Ohio made his comment, and I have exactly the same comment here in the press report.

We have listened for quite a little period of time to people that were trying to tell us several other things about the case involving the ITU. We have listened to a good number of comments that there was no talking at all between the general counsel's office, anybody else's office, that everything was just wonderful.

Now I think that it is perfectly proper to put into the record a leading editorial from the Washington Post on September 16, 1948, entitled "Putting On The Heat." This editorial refers specifically to what we are talking about tonight. This is not what I say. This is what the editor of a newspaper in this city has to say, and I gather that the newspaper in this city is much like others.

I suppose its editorial policy has not exactly supported the opponents of Taft-Hartley. I do not know whether it has taken any editorial position on the Taft-Hartley legislation or not, but I recall that it did not support the President of the United, if my memory serves me right.

Senator MORSE. What paper is that?

Senator HUMPHREY. The Washington Post.

Senator MORSE. It has taken a position in the——

Senator HUMPHREY. For or against?

Senator MORSE. In favor of its passage.

Senator HUMPHREY. All right, here is what it says. Permit me to quote part of it, and I will offer all of it for the record, and it can be reviewed by all Senators.

Mr. Taft himself is living evidence that a Senator is something more than this——

Senator NEELY. Mr. Chairman, I must say that we ought not to think of doing this in Senator Taft's absence. It is a great impropriety and I want to add, so nobody can distort my action here a moment ago, I want it understood that I am not withdrawing this statement in any sort of an apologetic way or with any degree of humility at all, and I intend to reenact the statement at the earliest possible moment in the Senator's presence. I want it known I believe I was fully justified in the question I asked, and that there was no impropriety in it, but I did not want to delay this hearing by debating the question here in the Senator's absence.

Senator HUMPHREY. I will continue with my quote now. It says:

Surely he——

meaning Senator Taft——

must recognize that the support of special claimants before a quasi-judicial agency such as the NLRB poses a serious threat to the impartiality and independence which should characterize the agency's judgments. Legislative intervention in issues before executive departments may be as Senator Taft says, a common practice; but it is a highly dangerous one, threatening to subvert the separation of powers which lies at the heart of the American system of government.

There is exhibit A.

Senator MORSE. Mr. Chairman, would the Senator from Minnesota permit me a statement very briefly?

Senator HUMPHREY. Yes.

Mr. MORSE. I think I can recollect what Senator Taft said rather accurately. He can correct it later, but I think it ought to go in at this point.

My recollection is that he said a couple of constituents from Ohio came to him and made inquiry as to the status of the case, and he in turn made inquiry to the general counsel's office as to the status of the case.

Now it is true we are constantly, as Senators, making inquiry as to the status of various matters affecting our constituents before admin-



istrative tribunals in this Government. The point that I wish the Senator from Minnesota would make, and I would join with him on it, is not concerned with the propriety of Senator Taft's statement or his action but with the propriety of having in the Taft-Hartley law a provision for a joint committee. Such a committee is charged with the statutory responsibility, as we have said—although someone said it was an unfortunate term, but that is what it amounts to—"watch-dogging" a department of this Government. Does not a member of such a committee find himself in a preferred position, so that inquiry by him will not stand on the same footing as an inquiry by other Senators?

Now I want to say that I am satisfied that Senator Taft in that instance did what each of us frequently does, make inquiries for a constituent as to the status, as to what was happening. However, I am so opposed to this provision of the Taft-Hartley law, because it is subject to the type of interpretation that has been made in this particular instance, that I think we ought to see to it that we eliminate from the statutes provision for such joint committees. Their existence makes it possible to put what many people will feel to be undue pressure upon a quasi-judicial body. We must keep separate and distinct the judicial functions of our Government from the legislative functions.

Senator HUMPHREY. If the Senator from Oregon would have permitted me to put all three exhibits in the record, that is exactly what I was going to arrive at.

The second exhibit I would like to offer is from an article by Joseph A. Loftus, special article to the New York Times, under date of August 13, put in the New York Times on the 14th, which brings to our attention the case that has been referred to and all of the details.

Also another editorial from the Washington Post on the 25th of August 1948, and finally the section of the minority report, minority views of the Joint Committee on Labor-Management Relations, Congress of the United States. The record is of April 1, 1948, which points out exactly what the Senator from Oregon was stating, the very serious danger that rests in a practice where a legislative body exercises a type of watch-dog function over an executive agency and thereby makes itself available for interference in the law enforcement or the law administration.

That is all I would like to say, as we are on it, and I do think we ought to offer the Senator from Ohio plenty of chance to retort. He had a fight with the President of the United States over this. I see no reason why we should not have one in the committee.

The CHAIRMAN. It will all be inserted in the record.

(The documents referred to are as follows:)

(Excerpt from minority views of the Joint Committee on Labor-Management relations, Congress of the United States:)

#### E. LEGISLATIVE INTERFERENCE WITH EXECUTIVE AND JUDICIAL FUNCTIONS

We have heretofore referred to the duties defined for the joint committee on labor-management relations in sections 401, 402, and 403 of the act. The performance of these duties has involved close relation between the members of the committee and officials of the Government performing executive and judicial functions.

This close relation results from the obligation on the part of the committee to conduct "a thorough study and investigation of the entire field of labor-man-

agement relations," and its further obligation to report to the Congress as to the necessity for additional legislation in the field.

We have recognized the necessity for an extended review of labor-management relations. Indeed, during the last session of Congress, we submitted a bill to provide for such a study. However, we feel that the performance of the duties by the joint committee involves a risk that there may be an unwarranted and unconstitutional intrusion in the fields preserved by our Constitution for the executive and judicial power.

[New York Times, August 14]

#### TAFT WOULD HOLD ITU FOR CONTEMPT—SENATOR CALLS FOR ACTION ON AN INJUNCTION REQUIRING UNION TO CONFORM TO LABOR LAW

(By Joseph A. Loftus, special to the New York Times)

WASHINGTON, August 13.—Senator Robert A. Taft, of Ohio, at the urging of some newspaper publishers, has called upon Government officials to bring contempt of court action against the International Typographical Union and its officers, it was learned today.

The Senator, it was reliably reported, also expressed himself in favor of a Taft-Hartley law amendment to permit individuals to sue for injunctions in labor disputes if the Government is not successful in getting a contempt citation against the printers.

The ITU and its officers have been under a Federal court injunction since March 27, requiring them to conform to the closed-shop prohibition and other provisions of the Taft-Hartley law.

The general counsel of the National Labor Relations Board obtained the injunction from Judge Luther M. Swygert in the Federal district court at Indianapolis.

#### PUBLISHERS CHARGE VIOLATIONS

Publishers' representatives have contended the ITU leadership has evaded and violated the injunction. The general counsel assigned investigators to the complaints and a decision whether to prosecute for contempt will be reached soon.

Three weeks ago it was learned, Senator Taft, who is chairman of the Senate Labor and Public Welfare Committee, summoned the appropriate NLRB officials to his office. They are David P. Findling, associate general counsel, and Winthrop Johns, who is in charge of the injunction section under the general counsel. They obtained the injunction in March from Judge Swygert.

Present in Senator Taft's office, among others, were John S. Knight, publisher of the Chicago Daily News; representatives of the Chicago Tribune and of the Hearst newspapers, and Thomas Shroyer, counsel to the Joint Congressional Committee on Labor-Management Relations.

Senator Taft, it was reported, told the NLRB lawyers he believed the ITU and its officers should be cited for contempt of court. Mr. Findling and Mr. Johns were understood to have explained the status of the case. They said if all the facts, when assembled, warranted a contempt citation they would go before Judge Swygert.

#### AMENDMENT IS SUGGESTED

Mr. Shroyer reportedly suggested that the solution might be an amendment to the law so that private individuals or organizations could bring injunctive action. Senator Taft added some supporting comment to that view, it was reported.

Senator Taft and Mr. Shroyer were out of the city today. Mr. Findling and Mr. Johns were unwilling to discuss the incident.

The general counsel nearly 2 months ago acknowledged receiving complaints that the ITU was violating the injunction. In a statement on June 18, he said "those complaints, which are, in effect, charges of contempt of the injunction, are now under investigation.

"This injunction was not idly sought and if our investigation develops that they are supported by facts, it is certain that an early petition will be filed to cite Mr. Woodruff Randolph (president of the ITU) and his organization for contempt."

Pressure for the contempt action has come mainly from Chicago where the newspaper printers have been on strike for nearly 9 months. The newspapers are being printed by a substitute process.

Issuance of the injunction in March failed to make any change in the Chicago ITU publisher relationship. The dispute, ostensibly, at least, is over wages but publishers contend the union is demanding closed-shop conditions in violation of the law.

The ITU recently approved contracts with New York City newspapers and the Gannett newspapers, but these are the exceptions in the ITU record of newspaper relationships since the injunction was issued. In most instances the printers received wage increases but new contracts were not signed.

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[From the Washington Post, August 25]

#### LEGISLATIVE PRESSURE

The current controversy over Senator Taft's alleged pressure upon the National Labor Relations Board to cite the International Typographical Union for contempt of court brings into focus a serious problem entailed in the relationship of so-called "watch-dog" committees of Congress to executive agencies. Joseph A. Loftus of the New York Times reported in that newspaper recently that the Senator called to his office two members of the NLRB general counsel's staff and told them in the presence of several publishers and publishers' representatives that he believed contempt charges ought to be brought against the ITU. Last week, the ITU convention at Milwaukee adopted a resolution based on this story calling upon President Truman to investigate "unwarranted interference" by Senator Taft with the executive branch of the Government. The President promised immediate investigation of the "shocking charge."

Although no comment on the matter has yet come from Senator Taft, who is absent on vacation, the general counsel of the Joint Congressional Committee on Labor-Management Relations, Thomas E. Shroyer, who was present at the meeting in the Senator's office, has told this newspaper that he himself called the meeting and that the Senator attended for only a few minutes, expressing no direct opinion as to the course which the NLRB should pursue. In addition, the general counsel of the NLRB, Robert N. Denham, has issued a public denial that there is any substance to the ITU charge.

Newspaper publishers are currently engaged in a bitter struggle with the ITU. Since March 27, the union and its officers have been under a Federal court injunction obtained by the NLRB requiring them to conform to the closed-shop prohibition and other provisions of the Taft-Hartley law. Publishers have complained to the NLRB that the union violated this injunction. The general counsel's office of the agency must decide, therefore, whether to prosecute the ITU for contempt. In this context, support of the publishers' complaint by the chairman of the Senate Committee on Labor and Public Welfare would be an obvious impropriety, the more gross if it were committed in the publishers' presence. The very fact that the meeting was held in the Senator's office, which is acknowledged, would appear to be, at the least, an indiscretion. For any intimation of preference on the part of their legislative overseers would make it extremely difficult for the NLRB to function with the independence of judgment requisite to its quasi judicial status.

The Joint Committee on Labor-Management Relations, like the Joint Committee on Atomic Energy or the Joint Committee on Foreign Economic Cooperation, exercises a general supervisory role over the administration of legislation in its particular jurisdiction. This role might justify a general admonition as to policy, as well as a report to Congress on the administration of the law. But it would certainly not justify pressure of intervention of any kind in an individual case. Legislative shaping of specific executive decisions would violate the constitutional separation of powers. And the effect of such violation would be to obliterate, or at any rate to obscure, the responsibility which is the essence of sound administration.

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[From the Washington Post, September 16]

#### PUTTING ON THE HEAT

Despite the pungent aroma of politics emanating from the interchange of accusations between President Truman and Senator Taft, an important issue is entailed. The controversy arose out of a meeting held on July 28 in Senator Taft's office at which officials of the NLRB general counsel's office were called

into conference with representatives of Chicago newspaper publishers and were allegedly pressured to bring a charge of contempt of court against the International Typographical Union—a charge actually brought by the agency about a fortnight later. The President termed the Senator's connection with this matter "entirely improper." And the Senator replied yesterday that "the Truman statement is merely an attempt to curry favor with the labor bosses who control the labor publicity to which he is looking for help in the election."

The account of the meeting given to the President by David P. Findling, NLRB associate general counsel, makes it plain, as indeed does Senator Taft's own statement, that the Senator did talk to the Government officials in the presence of the publishers' representatives and did impress upon them that he considered the typographical union case the most important proceeding that had arisen under the Taft-Hartley Act. In the circumstances, this admonition from the principal author of the act and the chairman of the Senate Committee on Labor and Public Welfare seems very much like what Mr. Truman aptly if inelegantly called it—an "attempt to put the heat on one of the executive departments."

Senator Taft says, "It is not only the practice but the duty of every Congressman and Senator when his constituents allege that some executive department is not doing its duty in relationship to matters in which they are interested to take up that matter with the executive department concerned." This is to view the Member of Congress as a mere creature of his constituents, a minion obliged to support their claims regardless of merit. Mr. Taft himself is living evidence that a Senator is something much more than this. Surely he must recognize that the support of special claimants before a quasi-judicial agency such as the NLRB poses a serious threat to the impartiality and independence which should characterize the agency's judgments. Legislative intervention in issues before executive departments may be, as Senator Taft says, a common practice; but it is a highly dangerous one, threatening to subvert the separation of powers which lies at the heart of the American system of government.

MR. RANDOLPH. May I say a word on that point at this moment?

THE CHAIRMAN. Please.

MR. RANDOLPH. We were discussing our impression of the situation and our convention adopted a rather strong resolution condemning Mr. Taft for his act. That is a matter of record.

I want to say further that upon the protest of the convention of the International Typographical Union to the President of the United States, he stated that he would cause an immediate investigation to be made, and he did so, and received a letter from Mr. Findling, which is now a part of the record, giving Mr. Findling's version of the situation, and in which Mr. Findling states, quoting Mr. Findling:

That he regarded the case as the most important case—

referring to Mr. Taft—in Senator Taft's language as reported by Mr. Findling—

that he regarded the case as the most important case that had come to the Board, and that it stood as a symbol to many Members of the Congress of the effectiveness of the enforcement machinery of the statute and that he was greatly disturbed by reports indicating that there was a serious break-down of the enforcement machinery in the case.

Now this is again a quotation of Senator Taft's statement:

I did not purport to pass on the facts of the case except to say that the publishers seemed to me to have made out a prima facie case.

That is Senator Taft's language, and if he did not judge the case and find it to be a prima facie case of a break-down of the law-enforcement machinery, what did his language purport? When a man who is not only a Senator but who is the leader of the Republican Party and controlling faction of the Senate, and recognized as the leader of the Republican Party of the Nation, entertains representa-

tives of Chicago publishers against whom our members are on strike, and he issues such a statement to the general counsel's staff, then we must conclude that there is interference between the legislative and the executive branch of the Government, and we must conclude that undue influence has been made.

That was the conclusion of our convention, and after the investigation and after the public statements of the several people involved, we are still of that opinion regardless of whether Mr. Taft engaged in these activities on the assumption that he was not doing anything wrong.

The fact remains that his intentions have nothing to do with his action, so far as we, the injured party, are concerned. We have a habit in our organization of judging people by their acts and not by their intentions, and I rather imagine that if any one of you, especially you lawyers, were conducting a case where a defendant stated after having shot at someone, that he did not intend to kill him, he was just trying to shoot him between the ribs and miss all the vital organs, I doubt if you would have assumed that he was as innocent in his intentions as Mr. Taft says he is innocent in his intentions in this case.

Regardless of the fact that Mr. Taft is not here, the record is what I am pointing to. We judge people by their acts, not by their intentions, and I say again that we were convinced—and all of this leads from a statement I made before—that there was a logical sequence in the steps that led up to the General Counsel making up his mind that the International Typographical Union was at fault, and that through the International Typographical Union defense fund, he could reach in and settle a strike by taking away the strike benefits from the members that were on strike in Chicago.

Senator PEPPER. Mr. Randolph, Senator Taft put in the record today a statement that was referred to as having been made by Mr. Shroyer, general counsel for the Joint Management-Labor Committee of the Senate and House under the Taft-Hartley law.

Before I read a paragraph or two of that statement which appears in the New York Times of Tuesday, September 23, 1947, I would like to ask you what was the date of the injunction application filed against the ITU by the General Counsel of the NLRB? Was it before or after September 22, 1947?

Mr. RANDOLPH. After.

Senator PEPPER. It was after that date. This is the article:

"Says ITU will fail in Taft-Hartley fight." That is the headline. The subheadline is "Counsel for Congress groups reports labor 'much more reasonable in bargaining'."

French Lick, Ind., September 22, AP: A prediction that the International Typographical Union would be "unsuccessful in its device to escape responsibility" under the Taft-Hartley law was made tonight by Thomas Shroyer, general counsel of the joint congressional committee to study operation of the new law.

Mr. Shroyer made the statement without elaboration in a speech prepared for the annual dinner meeting of the industrial relations section of the Printing Industry of America holding its annual convention here.

Now is that segment of the Printing Industry of America in any way associated with the employers against whom the ITU has been striking?

Mr. RANDOLPH. That is a segment of the Printing Industry of America, Inc., who was represented here by its president, Carl Dunham.

Senator PEPPER. But does it have the point of view of the interests of the employers in the controversy with the ITU?

Mr. RANDOLPH. They are apparently of them; yes.

Senator PEPPER. They are apparently of the group?

Mr. RANDOLPH. Yes.

Senator PEPPER. So the general counsel of this committee was speaking before the employer group?

Mr. RANDOLPH. That is right.

Senator PEPPER (reading):

The union has announced that it will not enter into formal contract with the employers under the Taft-Hartley law. A special committee of the newspaper association is to discuss a working agreement with ITU officials in Indianapolis Thursday and Friday.

Now I am ending the quote for the time being. That indicates that this statement was just before representatives of the employers were about to meet with ITU, to see about working out some kind of a contract, some sort of a working arrangement.

Mr. RANDOLPH. The representatives that met were from other fields, the newspaper field.

Senator PEPPER. Oh, I see.

Mr. Shroyer said it was too early to report what his study committee had determined except that "the new law is working."

It is working all right. It is just a question upon whom it was working. This is a further quote:

While labor leaders are condemning the Taft-Hartley law to the sky in the press and on the radio, they are bargaining around the conference table with a much more reasonable approach.

Any fellow who faces a man who has a club in his hand will probably walk more lightly and talk more mildly, so the fact that he would say they were talking with a much more reasonable approach indicated that his study had revealed that they felt that they did not have the strength at the conference table which they had formerly had on account of the Taft-Hartley law.

Mr. RANDOLPH. That is right.

Senator PEPPER. Was that the effect the Taft-Hartley law actually had upon employees, to weaken the strength of their unions?

Mr. RANDOLPH. I believe that without question the effect of the Taft-Hartley law has been to discourage the normal amount of what you might call the determination on the part of unions to follow the inflationary spiral.

The longer that the Taft-Hartley law is in effect and the more injunctions and citations for contempt that are issued, the weaker it makes the bargaining position of employees.

Senator PEPPER. Mr. Randolph, we are running short of time, and I want to yield to Senator Humphrey. I have got three questions that I want to ask you. Answer them as directly and as briefly as you can, please.

What is your thought about Mr. Henry's statement that—

The Wagner Act imposed the duty to bargain only on one side and placed the employers in our industry at a serious disadvantage.

Was there any question about your union ever bargaining with employers?

Mr. RANDOLPH. There was no question about our union ever bargaining with employers.

Senator PEPPER. No complaint was ever made about your failure to bargain prior to the Taft-Hartley law with your employer?

Mr. RANDOLPH. That is right.

Senator PEPPER. Mr. Henry discussed the need for prohibition against jurisdictional disputes and contrary to Mr. Dunnagan he claims this happens very frequently.

Do you know of such happenings as he has described on page 7 of his statement?

Mr. RANDOLPH. No, Senator, we have almost no jurisdictional disputes in the printing industry. The lines are very well drawn and were very well drawn a long time ago and they are very well followed.

Now the jurisdictional dispute, that language is used as a cover-all to, we will say, cover other points that cannot be described actually as a jurisdictional dispute.

For instance, he regards it as a jurisdictional dispute if the union refuses to work on a product coming in from a nonunion plant. He assumes that we are trying to force that employer to have his employees join our union, and that is not so.

Senator PEPPER. If you have any time, if you should have any time after Senator Humphrey's questions or after other Senators' questions, if you could comment on this question, it would be all right. If not, let it go.

I would like to get your comment on Mr. Henry's description as to how the secondary boycott works as described on page 8 of his written statement. I would prefer, unless you can answer that very briefly, for me to defer to Senator Humphrey.

Mr. RANDOLPH. Well, Senator, it is a very important question and, as I say, I will come back as often as necessary to give you the full information about this leading case in the enforcement of the Taft-Hartley law in every respect, whether we finish tonight or whether we do not.

Mr. Henry's approach to the matter that you have just mentioned is that we are trying to force through the refusal to handle struck work, trying to force organization of another plant. That is not true.

We are trying to protect the standards in the plant we have already organized and not allow the partial use of a union and the partial use of a nonunion product to break down the standards and cause the employer who has a whole union product to complain to the union that his wages must come down to meet this competing situation.

Senator PEPPER. I see.

Mr. RANDOLPH. Now Mr. Henry would destroy his own business if he had that opportunity, and these employers in the commercial field would destroy their own business if they had that opportunity.

Senator MORSE. Will the Senator from Minnesota simply permit a courtesy question of the chairman?

Mr. Chairman, I request that this record be kept open so that on Monday immediately following Mr. Randolph's discussion of the Taft statement, which he certainly had a right to discuss and express his views on in answer to the question put to him by the Senator from Minnesota, the record be kept open so that Senator Taft, if he wishes, can insert his reply at that point in the record as a matter of courtesy to

him, because I am sure he will issue a general denial of the interpretation because of his different interpretation of the facts.

The CHAIRMAN. It will be done.

Senator HUMPHREY. I would like to ask Mr. Randolph a question.

Do you think the closed shop has worked to the advantage of labor peace in your relationships with your employers?

Mr. RANDOLPH. I think it is the most important factor in maintaining labor peace in our industry.

Senator HUMPHREY. Well, would you be interested in hearing what some other people have had to say about this? I have here in my hands a copy of the New York Times—apparently I have been reading this paper lately—dated February 4, 1949. This is right up to date.

Possibly also the general counsel had better be looking into one of these matters because there is something here I will call his attention to. This is datelined Washington February 3:

The long and happy marriage of the Hickey-Freeman Co., and the Amalgamated Clothing Workers of America marked by collective bargaining and the closed shop—

you know this is after Taft-Hartley, gentlemen. I mean they still have the closed shop, according to this newspaper story—

was cited as worthy of emulation for industrial peace in a case study issued today by the National Planning Association.

The National Planning Association representing management-labor, editors, and publishers stated that it was not a pattern that could be expected to fit every collective-bargaining situation. The committee said, however, that it found in this fourth case study significant parallels to some of the findings of the previous studies. The series is entitled "Causes of Industrial Peace Under Collective Bargaining," and it is financed by a \$63,000 grant from John A. Whitney of New York.

Now what does this report show?

"The report shows," said the committee, "that some of the most troublesome issues clouding labor relations in some other companies and other industries are virtually non-existent at Hickey-Freeman. Its collective bargaining is not confused by the issues of union recognition, union jurisdiction, ideological differences in class warfare and international union politics."

I would like to emphasize this, that here is an impartial organization that has quite a reputation in America for its objectivity, for its professional standards, the National Planning Association, which met here, by the way, in Washington, D. C., and I believe was addressed by the President of the United States. It says:

The collective bargaining in this company is not confused by the issues of union recognition.

The Taft-Hartley Act has quite a little to say about union recognition, does it not?

Mr. RANDOLPH. Yes, sir.

Senator HUMPHREY. All right. "By union jurisdiction." Does Taft-Hartley try to say anything about union jurisdiction?

Mr. RANDOLPH. Oh, it destroys union jurisdiction at the will of the employer.

Senator HUMPHREY. All right. It also says here:

The Hickey-Freeman Co. and its union are not bothered by ideological differences and class warfare.

Possibly the Communist affidavit might be considered in this manner.



Mr. RANDOLPH. I do not know.

Senator HUMPHREY. Finally: "International union politics," which apparently the court and the trial examiners have been interested in in the ITU case. Is that not right?

Mr. RANDOLPH. Well, I do not know, but we have lots of politics in our organization.

Senator HUMPHREY. And policy. Now the next item is—

Then it spoke of two aspects of the bargaining situation worthy of note, and it went on to talk about industry-wide bargaining and the second situation, the closed shop.

Hickey-Freeman, in common with most other men's clothing manufacturers, operates today under a closed shop. The initial contracts specifically provided for an open shop, but the parties' experience led them later to agree on a closed shop.

Now it goes on to point out—

The closed shop does not per se prevent constructive labor-management relations. In at least some cases the closed shop may foster the closed shop management relationships. The successful operation of the closed shop requires responsible union leadership, democracy in unions, the retention of the power by the rank and file is necessary to prevent irresponsible leadership.

Now we can go right on down the line. This article goes on for two columns, but it is quite an endorsement of the closed shop which the Taft-Hartley law saw fit to eliminate and not only eliminate but make illegal, and which has caused you a good deal of difficulty, has it not?

Mr. RANDOLPH. Oh, certainly.

Senator HUMPHREY. The illegality of it?

Mr. RANDOLPH. The banning of the closed shop and the other features of the Taft-Hartley law, especially the other features have been responsible for an attitude on the part of the employers that brought on this strike, and it was not until February of 1948 that the first large group of commercial employers were willing to make a contract legal within the Taft-Hartley law giving us whatever protection it did have.

They held out all of that time, hoping to break down the union through the threats and intimidation we were getting out of the National Labor Relations Board General Counsel's office, and his trial examiners.

Senator HUMPHREY. You are familiar with this pamphlet. It is entitled "The Typographical Union, Model for All," reprinted in the Reader's Digest.

Mr. RANDOLPH. Yes; I am familiar with that.

Senator HUMPHREY. June 1943?

Mr. RANDOLPH. Yes.

Senator HUMPHREY. I would like to ask you a question. Is that story a fairly good evaluation of your union?

Mr. RANDOLPH. I think it is fair. One of the collaborators with Mr. Hard, I believe, visited our convention in 1942.

Senator HUMPHREY. It is very laudatory.

Mr. RANDOLPH. He visited my office in Indianapolis. I supplied him with a lot of information, documentary and otherwise, which he in turn took to Mr. Hard, and they must have collaborated on the article because it apparently was the outgrowth of the information he

secured attending for the whole week our convention in Colorado Springs in 1942.

Senator HUMPHREY. Well, now, you operate under closed-shop conditions, do you not?

Mr. RANDOLPH. We have up until the Taft-Hartley law.

Senator HUMPHREY. You have operated. The Amalgamated Clothing Workers apparently, of the Hickey-Freeman industry, operate under a closed shop, and I notice that two of the unions that get the big write-ups in America for being democratic, for having responsible union leadership, for having developed a fine sense of their responsibility to the management and to the Nation, all the good things of life, happen to be two unions that operate under closed-shop conditions, and yet the Taft-Hartley Act sees fit to ban them.

Now I gather from all that I have heard about you, Mr. Randolph, that you are a very responsible union official. I do not think anyone has in any way challenged your right to stand up and say that you do represent one of the sizable segments of organized labor and a very respectable segment of organized labor. Is that right?

Mr. RANDOLPH. I hope so.

Senator HUMPHREY. All right.

Mr. RANDOLPH. With all due modesty.

Senator HUMPHREY. Well, now, do not be so modest when you answer my questions, because you see, when the other side of the table puts things in the record with witnesses that are somewhat to their way of looking at things, I mean they just come right out with it.

Senator SMITH. I would like to agree with your statement about Mr. Randolph. From all I have ever heard, he is one of the outstanding leaders, and I pay him tribute for it. I appreciate his testimony here.

Senator HUMPHREY. Very good. How many years of experience have you had in union organization?

Mr. RANDOLPH. I have been a member for some 37 years.

Senator HUMPHREY. How long have you been in a position of leadership in organized labor?

Mr. RANDOLPH. Well, since about 1923, I guess.

Senator HUMPHREY. You have been pretty well respected by the members of the employers' group, as I gather from the background that I have on you. Is that not correct?

Mr. RANDOLPH. I have not had any complaints.

Senator HUMPHREY. All right. I want to ask you a question. Do you think you know quite a little bit about unions and their purposes?

Mr. RANDOLPH. Yes; I do.

Senator HUMPHREY. Has the Taft-Hartley Act helped in union growth and the democratization of unions in this country?

Mr. RANDOLPH. I cannot see where it has.

Senator HUMPHREY. Well, would you think that you would know as much about unions, let us say, as, oh, somebody that just recently got into the field?

Mr. RANDOLPH. Well, I ought to know a little more than that.

Senator HUMPHREY. You have been living with it, have you not?

Mr. RANDOLPH. I ought to know a little more than that.

Senator HUMPHREY. Let me ask you then, do you think that the Taft-Hartley Act has improved employer-employee relationships?

Mr. RANDOLPH. I am sure that it has not.

Senator HUMPHREY. It surely has not in the case of the ITU, has it?

Mr. RANDOLPH. No; it has not.

Senator HUMPHREY. Did you ever have so much trouble under the Wagner Act as you have had under the Taft-Hartley Act?

Mr. RANDOLPH. We have never had so much trouble in our whole life.

Senator NEELY. You mean in the whole 133 years of your existence?

Mr. RANDOLPH. There is nothing like this on record.

Senator NEELY. You organized in 1815?

Mr. RANDOLPH. Nothing like this on record, and our records go back to the beginning, I mean the beginning of the union.

Senator HUMPHREY. Do you think the Taft-Hartley Act brings the Government into labor-management relations quite directly?

Mr. RANDOLPH. Oh, it does, absolutely.

Senator HUMPHREY. Would you be interested in what former Congressman Hartley had to say about this in his book *Our New National Labor Policy*? This book will be old next year. You will have another new labor policy.

Mr. RANDOLPH. You can read it for the record. I do not care about it.

Senator HUMPHREY. I will read it for the record. I think you will agree with this, Mr. Randolph. I quote from page 142:

One of the most telling criticisms of the Taft-Hartley Act in the Halls of Congress was the extent to which it put the Government in the industrial relations business. I have admitted earlier that this criticism is in a large measure true.

I think just prior to that it says:

On June 23, 1947, it was on that date that the Government took a seat at the bargaining table.

In other words, we put in an extra chair. Now we have contended, some of us, that one of the weaknesses of the Taft-Hartley Act was the fact that it did put the Government, involved the Government in labor-management relationships, Government interference, Government restrictions, and may I use the words of my opposition, Government regimentation, bureaucracy. Can we think of any others? Those are the words that are always used. It is almost socialism.

Mr. RANDOLPH. Well, I would disagree with Mr. Hartley to this extent. He says it puts another chair at the bargaining table. I would say it shoved us away from the bargaining table.

Senator HUMPHREY. Now may I just conclude with this to show what may be the purposes of this act. I did not realize just what the purposes were of this act until I got down to the very last page of the distinguished former Congressman's book. On pages 192 and 193 it says this—

You would be interested in this because I thought the Taft-Hartley Act was primarily directed toward labor-management relationships, and I find out that the Taft-Hartley Act had a greater purpose and that one of the authors of this act found that it was to be some sort of a big broom that would just sweep clean the social horizon of America. Do not take my word for it. Listen to this:

Therefore, in addition to the development of a national labor policy which will stand on its own feet without governmental guidance, the people of this country

must also strive through their elected representatives in Congress to reduce, to restrict, and to eliminate from the Federal establishment those services which can be discarded practicably. To prevent this from sounding like a composite of the usual political speech—

this is Congressman Hartley talking now—

I shall be specific as to the sort of governmental activity which is costing us much more than we can justify.

I want you to listen to the social philosophy that is here.

The Fair Labor Standards Act—

got to get rid of that, he says—

is typical of the New Deal legislation enacted to combat the depression. Such legislation failed to affect the depression one way or another and has definitely outlived its usefulness as it was supposed to have had.

That is the 40-hour week, you know, time and a half for overtime, child labor, that have outlived their usefulness.

The Federal Communications Commission has expanded its activities far beyond its simple original function of dividing up the available wavelengths among various radio stations. The Federal Power Commission represents and perpetuates unwarranted encroachment upon individual rights.

This philosophy is not only content with starting a law or putting on the books a statute which in the ultimate could destroy free trade-unions, but they would likewise apparently destroy the TVA and all that comes with it.

The innumerable Federal agencies charged with conflicting responsibilities in the field of housing—

these have got to be eliminated, too—

they have contributed more to the shortages of housing than any single factor except the wartime drain on materials. Not one has come to grips with the heart of the housing problem. All of the top executive departments are over-staffed and attempting to do more than Congress ever authorized.

This is a great Nation, but the greatest of nations cannot last forever carrying a load of nonproductive Government officials and employees.

That, of course, includes officials under the Taft-Hartley Act and the rest.

We must develop a method to shrink our Federal establishments.

That is exactly what we intend to do, is it not, gentlemen? I mean in part—"and quickly"—and we intend to do it quickly, by the way.

It is my sincere hope that the Taft-Hartley Act—  
now listen to this—

will point the way for the Republican Party to approach its over-all problem of reducing the size and the cost of Government. Once we accept the concept of the Taft-Hartley Act as a model to begin an interim period leading to the complete elimination of Government labor-relations agencies, we can apply that same concept to the other areas of Government activity. I am well aware of the political difficulties of eliminating the New Deal social legislation. It cannot be repealed at a single stroke. All of this legislation of this type requires interim treatment.

Senator MORSE. The Senator from Minnesota is aware, is he not, that Mr. Hartley was not a member of the Republican platform committee at Philadelphia?

Senator HUMPHREY. I am aware of the fact that Congressman Hartley did not run for reelection, but I am more aware of the fact

that he was the coauthor of this bill. Let us just complete this and we will be all through.

Senator NEELY. May I interrupt you?

Senator HUMPHREY. Indeed you may.

Senator NEELY. Mr. Chairman, although Mr. Hartley is not notoriously a candidate for the nomination for President in 1952, he is a former Member of the House. Therefore, is it not highly improper for us to talk about him this way in his absence? [Laughter.]

If anybody objects I shall vote to sustain the objection.

Senator HUMPHREY. I will continue on after those words of wisdom. I continue the quote:

But as soon as all segments of the populace become aware of the tremendous cost of particular benefits of governmental labor-relations agencies as compared to reduced tax bills, we provide interim legislation which does not benefit any particular group, then and only then can we make appreciable headway in reduced the size of Government.

Now listen to the prophet. This is one of the great prophetic dreams of our times. Should we say Jeremiah?

Before the 1948 elections are finished the Taft-Hartley Act—

Senator NEELY. Jeremiah's prophecies came true.

Senator HUMPHREY (reading):

will be hailed as the greatest single contribution the Republican Party has made to this Nation. To my mind the Taft-Hartley Act represents the greatest single contribution made by any political party for the past two decades. It corrects in a single piece of legislation the outstanding mistakes of the New Deal. At the same time it points a way toward the method to be utilized in correcting the other errors of Government initiated in the 1930's. Our final goal is, and it must be that the Taft-Hartley Act is but a step toward that goal, but it is a certainty that it is the first definite step this Nation has taken since the merry-go-round began in 1933.

Now, I would gather from that that what the purpose of this legislation is, in the words of one of the authors, is to take this country back to the days prior to 1933. That is what he says. Read it as you want to.

The Taft-Hartley Act is but a step toward that goal, but it is certainly the first definite step this Nation has taken since the merry-go-round began in 1933—and he points out—

It points a way toward a method to be utilized in correcting other errors of government initiated during the 1930's.

Well, there is only one analogy to be drawn, and it seems to me quite clear, to get back into law of the jungle and to get back to the time when the strong shall exploit the weak; as I said this afternoon, that is one view of this business of balance that I have heard of repeatedly equalizing the privileges of labor and management.

If there was ever one single piece of legislation in all of the history of this Congress that did anything to destroy the equilibrium of this country and to put the balance of power in the hands of the mighty and the powerful and at times, may I say, even the greedy, it was this one piece of legislation.

I think the evidence is conclusive. I think it is perfectly clear. Now that does not mean that we are the kind of people that will go back some place where there is no improvement. We offered to the people out of this committee the Thomas bill, the Thomas bill which

recognizes the problem of jurisdictional disputes, which recognizes the problem of national emergencies, which recognizes the problem of some secondary boycotts, but which permits a free latitude of expression on the part of labor and management.

Now I will ask the final question, Mr. Randolph: Do you approve or disapprove of the main provisions of the Thomas bill, S. 249?

Mr. RANDOLPH. My written statement indicated that we were, in spite of some objections we might otherwise make, for it as it is submitted by the chairman of this committee, completely, for speedy action by the Congress to get rid of the Taft-Hartley law, and for its trial to see if there is any justification in the thought that it may have some things that will not work out.

We are willing to take whatever risks there may be in it if we can get it adopted and get it adopted at once so as to be rid of that persecution that comes through the Taft-Hartley law.

Senator HUMPHREY. That is all I have to say.

Senator NEELY. May I ask one more question?

The CHAIRMAN. Senator Neely.

Senator NEELY. Mr. Randolph, in view of all that has been said and in view of your experience under the Taft-Hartley law, under the operation of which your union has had to spend more than \$11,000,000 in 16 or 17 months to defend itself, would it be an exaggeration to say that as far as the International Typographical Union is concerned the Taft-Hartley Act has meant, in the language of one of the witches in Macbeth "double, double toil and trouble, fire burns and cladron bubble." Would that be an exaggeration or would that be accurate?

Mr. RANDOLPH. I believe that would be a very great understatement, Senator.

Senator NEELY. I characterized it in my recent campaign, as the abomination of desolation spoken of by the Prophet Daniel. Would you concur that?

Mr. RANDOLPH. As the printer says, you can put my slug over that.

The CHAIRMAN. Thank you, Mr. Randolph, for coming. We stand in recess.

Mr. RANDOLPH. Mr. Chairman, may I ask that I be permitted to read the record and correct any obvious mistakes that I have made?

The CHAIRMAN. That is always allowed, Mr. Randolph.

Mr. RANDOLPH. And may I also submit for the record a list of other statements in the American Newspaper Publishers bulletin concerning how the publishers themselves accept the attitude of Mr. Taft and Mr. Shroyer regarding our union?

The CHAIRMAN. That is all right, if you will expedite it as fast as you can so we can complete the record. We will appreciate that.

(Whereupon, at 10:10 p. m., the hearing was recessed, to reconvene at 9:30 a. m., Monday, February 14, 1949.)

(Subsequently Mr. Gerhard Van Arkel addressed the clerk as follows:)

VAN ARKEL & KAISER,

*Washington 6, D. C., February 14, 1949.*

Mr. EARL WIXCEY,

*Clerk, Senate Committee on Labor and Public Welfare,  
Senate Office Building, Washington, D. C.*

DEAR MR. WIXCEY: At the time Mr. Woodruff Randolph, president of International Typographical Union, was testifying before your committee, permission was accorded him to supply certain news items and speeches bearing on the

ITU cases. Pursuant to that permission, I enclose two copies of each of the following items:

1. Extract from ANPA Bulletin No. 4966, dated August 29, 1947.
2. Extract from ANPA Bulletin No. 4967, dated September 5, 1947.
3. Excerpt from ANPA Bulletin No. 4972, dated September 25, 1947.
4. Extract from New York Times of October 8, 1947.
5. Copy of AP dispatch appearing in the Indianapolis News on August 26, 1947.
6. Copies of articles appearing in Editor and Publisher on August 30, 1947.
7. Article appearing in ANPA Bulletin No. 4983, dated August 23, 1947.
8. Article appearing in ANPA Bulletin No. 4973, dated September 26, 1947.
9. Article appearing in ANPA Bulletin No. 4988, dated November 14, 1947.
10. Article appearing in ANPA Bulletin No. 5001, dated December 12, 1947.
11. Copies of speech made by Mr. Thomas Shroyer on October 27, 1947.

Pursuant to the permission granted Mr. Randolph, we will be grateful if these items could be made a part of the record of the present hearing.

Very truly yours,

GERHARD P. VAN ARKEL.

On page 859 of ANPA Bulletin No. 4966, dated August 29, 1947, the following appears in bold face type:

**"BULLETIN**

"On August 26 a press report quoted NLRB General Counsel Robert N. Denham to the effect that the International Typographical Union may be violating the LMRA by refusal to sign contracts with employers."

The above bulletin appears on the same page with an article headed "Full text of 'conditions of employment' ITU will use under no-contract policy." In addition to being printed in bold face type it is in a box by itself on the page to obviously create an impression that the alleged "policy" of the ITU is what is considered by Robert N. Denham to be a probable violation of the law.

Copy of article appearing on page 877 of ANPA Bulletin No. 4967, dated September 5, 1947:

**"ITU 'NO CONTRACT' POLICY VIOLATES TERMS OF LMRA, HARTLEY WARNS PUBLISHERS**

"The following article is reprinted from the August 30 issue of Editor and Publisher:

"WASHINGTON.—Publishers and typographical unions alike will be "answerable" to the congressional committee policing operation of the Taft-Hartley law if they work collusively to evade its terms by agreeing to the ITU "no contract" policy, Representative Fred A. Hartley, Jr., coauthor of the act, warned this week in a statement to Editor and Publisher.

"Hartley protested the Senate had drawn from the law the teeth necessary for full-fledged compliance, but he was confident, he said, that the ITU stand presents a violation clearly within the control of the statute as written.

"He said he has been following newspaper reports of situations in which the ITU has demanded that its "conditions" be followed in substitution for contracts and it is his personal view that the joint committee will agree with his interpretation and impose whatever sanctions the statute permits.

"Hartley went further to say many of the contract agreements in lines of business other than printing and publishing which were rushed through before last Friday's effective date of the new law would be found by the joint committee to be inoperative under the Taft-Hartley Act.

"The joint committee to which he referred is advisory to the National Labor Relations Board but its findings and recommendations are expected to be the basis for amendments to the law and for interpretations when Congress meets again in January.

" "If the application of the measure to either the ITU or other unions, management or labor—or both—works out to prove the cure is worse than the malady, the expedient lies with Congress," Hartley said.

" "I am convinced, however, that every basic right of labor is protected in full by the act. It guarantees labor's right to join a union, the right to organize, and the privilege to strike.

"“However, this is the law of the land. Fundamental weaknesses will be corrected, but in the meantime Congress will insist upon compliance by both management and labor.

“““Obvious evasions through which employers and employees attempt by agreement, collusion, or acquiescence to ignore the stated provisions of the law, will result in immediate correctives—either by the National Labor Relations Board now, or by Congress a few months hence.”““

In ANPA Bulletin No. 4972, dated September 25, 1947, the following articles entitled "Insist on Full Compliance With LMRA in Negotiations With ITU, PIA Resolves" and "Says ITU Will Fail in Its Attempt To Escape LMRA Responsibility" appeared on the same page (p. 928). Anyone reading the two articles appearing on the same page could not help but presume that action of the PIA as enunciated in its resolution was predicated on the prediction of Thomas Shroyer, general counsel of the joint congressional committee to study operations of the LMRA, that the ITU, by inference, would be found guilty of a violation of the act. The two articles follow:

#### "INSIST ON FULL COMPLIANCE WITH LMRA IN NEGOTIATIONS WITH ITU, PIA RESOLVES

"The union employers' section of the Printing Industry of America voted unanimously on September 23 to insist on full compliance with the LMRA in negotiations with the International Typographical Union.

"After discussing the operations of the law and its probable effects on the industry the group adopted this resolution:

"Whereas the International Typographical Union has announced a policy of "no contracts" in future negotiations; and

"Whereas this policy of the International Typographical Union threatens the stability of the commercial printing industry, the security of employment and production within the industry, and the historic system of enforceable contracts which have applied in the union shops of the industry; and

Whereas this no-contract policy is, in our opinion, a violation of both the spirit and the letter of the Labor-Management Relations Act adopted by the Congress of the United States in that it represents a refusal on the part of this union to bargain collectively as provided by law: Be it

*Resolved*, That the Union Employers' Section of the Printing Industry of America affirm its adherence to the law as passed by the Congress of the United States and pledges itself to conduct negotiations in full compliance with the law; be it further

*Resolved*, That it shall be our primary objective under the law to maintain our record of peaceful collective bargaining. We shall continue to recognize the inseparable interests of labor and management in maintaining employment and high living standards as the best assurance for continued peace and prosperity within the industry.

#### SAYS ITU WILL FAIL IN ITS ATTEMPT TO ESCAPE LMRA RESPONSIBILITY

A prediction that the International Typographical Union would be "unsuccessful in its device to escape responsibility" under the Taft-Hartley law was made on September 22 by Thomas Shroyer, general counsel of the joint congressional committee to study operation of the new labor law.

Mr. Shroyer made the statement, without elaboration, in a speech prepared for the annual dinner meeting of the industrial relations section of the Printing Industry of America, holding its annual convention at French Lick, Ind.

Mr. Shroyer said it was too early to report what his study committee had learned except that "the new law is working."

"While labor leaders are condemning the Taft-Hartley law to the skies in the press and on the radio they are bargaining around the conference table with a much more reasonable approach," he said.

"There has been considerable talk of bypassing the law of contracts wherein the employer renounces the right to sue the union for strikes and breach of contract. In those cases, however, the employer has received something in return."

#### HARVESTER CONTRACT CITED

Mr. Shroyer pointed to the International Harvester contract (see Bulletin 4962, p. 781).

"It provides," he said, "that in case of a wildcat strike, the union will immediately post on the bulletin boards a notice to its member to ignore the picket lines,



to not support the strike, and a request that the strikers return to work. Anyone familiar with labor relations must know that such a provision is worth many times more than a right to sue for damages."

James F. Newcomb, retiring PIA president, told the convention that the ITU decision against further contracts might force the commercial printing industry to "bear the brunt of the union-industry fight over the Labor-Management Relations Act."

Mr. Newcomb urged the printers "to see that the provocations of the moment do not lead to chaos in our labor relations and to a general collapse in our industry."

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[From the New York Times, Wednesday, October 8, 1948]

# BALL CALLS PROPOSALS OF ITU IN BALTIMORE "THINLY VEILED CLOSED SHOP CAMOUFLAGE"

(By Joseph A. Loftus, Special to The New York Times)

WASHINGTON, October 7.—Senator Joseph H. Ball, Republican, of Minnesota, said today the International Typographical Union, American Federation of Labor, was proposing "a very thinly veiled camouflage for the closed shop" in its Baltimore negotiations. In his opinion it does not comply with the Taft-Hartley law.

The ITU union security clause proposed in Baltimore stipulates that the union assumes no obligation to require its members to work with nonmembers. In other words, if an employer hired a nonunion printer the other printers might walk out and the union would bear no responsibility to order or effect their return.

Senator Ball, who is chairman of the Joint Committee on Labor-Management Relations established by the Taft-Hartley law, said there would be a prima facie case of unfair labor practice if a man without a union card applied for a job in a shop under such a contract and was turned down.

Baltimore employing printers filed charges of failure to bargain in good faith against the ITU. A hearing before an examiner of the National Labor Relations Board is scheduled for October 14. The union meanwhile is working without a contract and negotiations for a new agreement are proceeding.

Senator Ball said the Senate-House committee undoubtedly would discuss the issues raised by the ITU's position when it meets with members of the NLRB and its independent general counsel, Robert N. Denham, tomorrow.

The committee held two executive sessions today and heard an outline of the studies being made by the staff in preparation for public hearings, probably in December. Investigations of labor-management relations already have been made at the Botany Worsted Mills, Passaic, N. J., the Hormel Co., Austin, Minn., Pittsburgh Plate Glass Co., and Goodrich Rubber Co. Hearings will develop past and present policies governing labor-management relations in the plants of these companies.

Senator Ball said observations so far disclosed no glaring defects in the new labor law, although he acknowledged that the experience has been too brief to develop cases and decisions which might be regarded as precedents. He also said that there has been no evidence of a departure from the intent of Congress by any agencies entrusted with the administration of the act.

Satisfactory liaison has been established between the committee staff and these agencies, except for the Department of Justice, Senator Ball said. Thomas Shroyer, committee counsel, has been trying for 6 weeks to establish contact in the Justice Department with the man who is going to handle cases which may fall within that Department's province. He said he did not regard the matter as particularly serious, but he nevertheless wanted to establish such a liaison.

The law provides criminal penalties for some violations, such as illegal political expenditures and contributions.

Senator Ball was asked about the prohibition against expenditures by any corporation in connection with an election and its possible application to incorporated newspapers which spend money to gather election news.

He replied, "I think the legislative history is clear that newspapers are not covered" by that prohibition, except labor newspapers which make special campaign expenditures financed by union dues.

The committee conferred today with Cyrus S. Ching, new director of the Federal Mediation and Conciliation Service. The meeting with the NLRB, tomorrow will deal with whatever problems of administration the board and its counsel may want to bring up.

[From the Indianapolis News, AP Dispatch, August 26, 1947]

Mr. Denham also indicated that he thinks the AFL International Typographical union was sticking its neck out by refusing to sign any new contracts. The union, at its convention in Cleveland last week, voted to rely on memoranda stating "conditions of employment" which they would bargain out with employers in lieu of signed contracts.

Mr. Denham declined to comment directly on the policy, but he pointed to a 1941 Supreme Court decision in the H. J. Heinz case.

The tribunal ruled that Heinz, which had followed the practice of setting out conditions of employment but not entering into signed pacts with its workers, was required to put into contract form the agreement it reached by collective bargaining.

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[From Editor and Publisher Magazine, p. 5, August 30, 1947]

#### HARTLEY SAYS ITU POLICY VIOLATES LAW

WASHINGTON.—Publishers and typographical unions alike will be "answerable" to the congressional committee policing operations of the Taft-Hartley law if they work collusively to evade its terms by agreeing to the ITU "no contract" policy, Representative Fred A. Hartley, Jr., coauthor of the act, warned this week in a statement to Editor and Publisher.

Hartley protested the Senate had drawn from the law the teeth necessary for full-fledged compliance but he was confident, he said, that the ITU stand presents a violation clearly within the control of the statute as written.

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Hartley went further to say many of the contract agreements in lines of business other than printing and publishing which were rushed through before last Friday's effective date of the new law would be found by the joint committee to be inoperative under the Taft-Hartley Act.

The joint committee to which he referred is advisory to the National Labor Relations Board but its findings and recommendations are expected to be the basis for amendments to the law and for interpretations when Congress meets again in January.

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"However, this is the law of the land. Fundamental weaknesses will be corrected, but in the meantime Congress will insist upon compliance by both management and labor.

"Obvious evasions through which employers and employees attempt by agreement, collusion, or acquiescence, to ignore the stated provisions of the law will result in immediate correctives—either by the National Labor Relations Board now or by Congress a few months hence."

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[From ANPA Bulletin No. 4983, August 23, 1947, p. 1039]

#### BEST TO WITHHOLD WAGE INCREASES IF SATISFACTORY CONTRACTS ANTICIPATED

Publishers who grant wage increases before they reach a definite agreement with the ITU on a new contract will find it difficult if not impossible to settle a new contract. This sound thesis is argued in the following extract from PNNA bulletin of October 17, page 268:

"Ninety-nine percent of the International Typographical Union's 'no contract' objective is realized when employers grant wage increases without obtaining contract commitments from the local union.

"If the local union proposes a wage increase and 'no contract' pending developments elsewhere, the employers' answer should be an emphatic 'No.' Nor should employers propose wage increases in the absence of a positive affirmation from the local union that it is willing to negotiate and sign a contract which

complies in every particular with the LMRA. Even then the basic rule that wages and fringe costs are not open to discussion until agreement is reached on every other section of the contract should be forcefully invoked.

"A wage increase for peace now will mean either no contract at all or a very bad contract at best when the ITU program has crystallized. Only by withholding wage increases to local typographical unions can employers hope to obtain satisfactory contracts within the law."

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[From ANPA Bulletin No. 4973, September 26, 1947, p. 933]

#### WRITTEN PACTS MANIFEST RESULT OF BARGAINING—NLRB GENERAL COUNSEL

*Below are extracts from a speech by NLRB General Counsel Denham before the labor relations section of the American Bar Association on September 23, 1947. Here Mr. Denham is talking about negotiations and counterproposals—about what bargaining in "good faith" means. His thoughts on the subject run counter to those of IT Uas expressed in the union's no-contract policy (Bulletin 4963). Emphasis is supplied on the following extract:*

#### TEXT

"The provision which makes it an unfair labor practice for a union to refuse to bargain collectively in good faith with an employer is eminently fair and proper and was called for. In many instances in the past, unions have presumed upon the Board's old rule that the union could demand, but the employer has to bargain and make counterproposals. Numerous instances have come to the attention of many of us where labor organizations have approached an employer, laid a prepaid contract on his desk and said: 'Sign here, brother—or else.' And in many such instances if he failed to sign, he found that the 'or else' meant an expensive boycott or strike.

"It was not until shortly before the enactment of this law that the Board took clear cognizance of the conditions created in such circumstances. In the very recent *Times Publishing Co.* case where the union insisted upon the adoption by the employer of its 'conditions of employment' and its adoption of an agreement to abide by whatever rules the union itself might make, *the Board found such conduct to be not collective bargaining on the part of the union, but to be such conduct as made collective bargaining on the part of the employer impossible.*

"This section of the law, therefore, does little more than put into the law an adoption of the rule toward which this last decision of the Board tended.

"Much has been said about the definition of collective bargaining that is set up in the act. Under the old theories, employers were required to make counterproposals. This naturally was construed by them as an indication that an employer, in order to be in the posture of collective bargaining in good faith before the Board, was compelled to be in a constant state of retreat in the collective-bargaining process, which obviously does not indicate bargaining on a basis of equality. The language of the amended act defining collective bargaining does not reduce, in my opinion, the obligation of the bargainers to sincerely, and honestly, and in good faith, attempt to find a basis of mutual agreement. The cogent words in that section, which is section 8 (b) (6) (D), are, 'in good faith.' To merely meet and exchange demands with no sincere effort to find a common meeting of minds is not conferring 'in good faith with respect to wages, hours, and other terms and conditions of employment,' as the statute requires. In short, I do not feel that it was the intent of the legislators to materially change the rule as it has existed for years with reference to bargaining in good faith. The intent as I see it, is that *both parties must approach the bargaining table with open minds, although, of course, always with their own objectives before them, and sincerely try to find the basis for an agreement. Collective bargaining would be an idle term if it did not contemplate an ultimate agreement in written form and signed by the parties if either party should desire that formality.* To be sure, counterproposals are not mandatory, but when two parties undertake to explore an area in which they are seeking a common meeting ground, inevitably there must be many departures from the original point of view and concessions on both sides *looking to the consummation of an agreement.*

"The material part of this provision is that not only must the employer do this, but *the bargaining representative of the employees is under an equal obligation,*

*and as in the case of the employer is under an obligation to reduce the agreement to writing and sign it upon request when major points of agreement have been reached.* In my opinion, the recognition and adherence to the provisions of this requirement for collective bargaining in good faith by both the employer and the representative of the employees marks the outstanding feature of the act that can be the medium for a greater degree of industrial peace, than any of the other provisions of section 8 (b)."

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[From ANPA Bulletin No. 4988, November 14, 1947, p. 1080]

#### SAYS ITU WILL NOT BE SUCCESSFUL

Thomas E. Shroyer, chief counsel for the Joint Congressional Committee on Labor-Management Relations, studying the operation of Labor-Management Relations Act, told the New York Employing Printers Association recently that the ITU "would be unsuccessful in its device to escape responsibility under the new law," just as employers were unsuccessful in attempts to escape their responsibility under the Wagner Act. He also reported that the committee "is not through with the subject of industry-wide bargaining." Two proposals, advocated by the printing industry but defeated in the Senate, have priority on the committee's agenda, he declared. "The hearings conducted by the Senate committee this year made out a good case for some regulation of compulsion by international unions of their constituent locals," he said.

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[From ANPA Bulletin No. 5011, December 12, 1947, p. 1171]

#### SENATOR BALL SAYS ITU AND TEAMSTERS' FIGHTING RIGHTS GUARANTEED EMPLOYEES

Senator Ball (Republican, Minnesota), chairman of the joint congressional watchdog committee over Labor-Management Relations Act, on December 4 charged that the International Typographical Union and the teamsters' union are fighting rights granted employees by the act.

In his weekly news letter to constituents, Ball reported that the Taft-Hartley law is working out "far better than even its most optimistic supporters had hoped," and the only dark spots in the labor field are in the printing and the transportation fields.

Referring to the ITU, which called a strike of Chicago printers, Ball said it "is fighting in some cities to evade the prohibition of closed-shop contracts in the law, while the teamsters' union is still trying to work the secondary boycott racket, also prohibited in the law."

"It is interesting," he continued, "that the trouble should center on these two unions, both of which have been recognized for many years by employers and have had the tightest kind of control over employees in their industries."

"It is the rights guaranteed to employees by the act which these unions are fighting. So far the remedies for such practices in the act are working well, so well that after just 1 day of investigation by the NLRB of a secondary boycott by the teamsters in New York, the union called it off rather than face an unfair-labor-practice charge."

Ball said that no serious "bugs" have developed in the law since it became effective August 22, and "hysterical charges against the act still being echoed by union leaders are pretty ridiculous."

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#### NEW YORK EMPLOYING PRINTERS ASSOCIATION, INC.

##### PUBLICITY DEPARTMENT

Address of Thomas E. Shroyer, chief counsel for the Joint Congressional Committee on Labor-Management Relations, on the new Labor-Management Relations Act, Monday, October 27, 1947, before New York Employing Printers Association, Inc., grand ballroom, Hotel Pennsylvania, New York

I can think of no industry about whose daily operations I have less personal knowledge than the printing industry. However, labor relations are not too variable a quantity from industry to industry. You in the printing industry have just come a little farther down the road than mass production industry.

in general. Unionism in your field antedated by some 100 years the general unionization of mass production industry.

In an attempt to discover how your national association, Printing Industry of America, Inc., had been thinking with respect to labor legislation, I pulled out the brief you filed with the Senate Labor Committee last spring. I had read it at the time it was filed during the hearings but had had no occasion to reconsider it after the bill became law. It is interesting to note just how many of your suggestions actually were incorporated into the new law. It indicates again that you in the printing industry have pretty much the same labor-relations problems as other industries. It also demonstrated to me that your association has taken a reasonable, fair-minded approach to those problems. You merely desired equality under the laws and regulations. I found no expression of a desire to destroy labor gains or to avoid collective bargaining with the representative of your employees.

I want to come back to the eight specific recommendations made by your association and tell you how many of them found their way into the new law, but first I believe you might be interested in knowing a little about how that law was written. My own experience was on the Senate side of Capitol Hill, with the exception of the 2 weeks in which the Senate and House conferees met to work out the differences in the two bills passed by their respective Houses. That was a rough 2 weeks, for the House bill went much farther than that of the Senate in union regulation.

The Senate committee commenced work on an over-all labor bill in January. There were 44 individual labor bills introduced in the Senate, and the House had many times more. I sincerely doubt that there is any subject upon which so many people have definite opinions. We had 8 weeks of hearings and heard from labor, management, and the public. If I ever testify before a congressional committee, I am going to stick to facts and examples. They are more impressive. One witness described the following incident: A worker in an industrial plant in southwestern Ohio observed a fellow employee slug a foreman. He was later subpoenaed to testify as to what he had seen. For having so testified against a fellow union member, he was expelled from the union for conduct unbecoming a member of the union. The plant was operating under a closed shop. The union then demanded his discharge, and the employer was forced by his contract to comply. So for having told the truth in response to a subpoena this man lost his job.

That incident and hundreds like it had a lot to do with the fact that the new law goes so far in regulating compulsory union membership.

People from every State and every walk of life wrote to their Senators and Congressmen. While the bill was being considered, Senator Ball received 700 letters per day on labor (he didn't count postcards). Senator Taft's mail on the subject was comparable and at times exceeded that of Senator Ball. Almost without exception these people wanted something done about the closed shop, Communists in the labor movement, rackets, boycotts, and jurisdictional strikes, dictation from labor leaders, high initiation fees, misuse of welfare funds, and unnecessary strikes. With this volume of mail coming in from their constituents, legislators in both Houses of Congress became very labor-legislation conscious. The Senate Labor Committee had a very busy 5 months. It was fortunate in having a number of Senators who knew a lot about labor. It would be difficult to assemble a group of legislators better informed on this subject than Senators Taft, Ball, Ives, Morse, and Ellender.

Senator Taft, as chairman of the committee, and Senators Ball and Ives, took the lead in drafting a bill. I believe their purposes may be summarized as an attempt to balance the rights of labor with certain responsibilities which it had failed to assume voluntarily. It was an attempt to correct the abuses of discretion by the National Labor Relations Board. It was an attempt to provide remedies for well-recognized abuses.

There had to be compromise of ideas, but Congress did come up with a law to be proud of. Will it remain unchanged? In the eyes of its supporters, the Wagner Act was a sacred document that could not be touched, and all attempts to amend it were fought off for 12 years. The framers of the Taft-Hartley Act had a different attitude, which is demonstrated by the creation of the study committee within the statute itself. They wanted to be kept advised by a day-to-day check on the operation of the new law. They wanted to know whether it was meeting its objectives. At the same time, they desired a long-range study of major problems with a view to future legislation. All 14 members of the study commit-

tee are members of the permanent standing committees of the Senate and House which must consider the various labor bills which will continue to be introduced.

The leaders of organized labor are continuing their attack on the Taft-Hartley law. Their hue and cry is in general terms. It must be. They cannot defend any of the abuses the act seeks to remedy. The act is not revolutionary. It is but a step forward in the evolution of the Nation's labor policy. The growth of unions fostered by the Wagner Act made necessary legislation for the protection of the public interest and the welfare of individual workers.

Certain rights and protections were also given to employers. You are, in the main, small employers, and I don't need to tell you that the inequality of bargaining power which the unions talk about often finds the employer on the short end of the scale.

Just what can an employer do, even a fairly large one, when, for example, the teamsters' union lays down its contract with the ultimatum that "nothing moves in or out until this is signed"? A small employer has many times found himself pitted against an international union where refusal to accede to its demands means ruination of his business. It seems to me that our economists in the last few years have been talking too much in generalities without considering the individual workman or the individual employer. Thus, we find them saying that a certain industry can afford to pay a certain percentage wage increase without increasing prices because that industry made a certain percentage of profit during the last year. But you just can't lump thousands of employers together in that fashion. Some could pay the average or higher; others, because of particular local conditions, couldn't pay a penny.

Coming now to those eight recommendations made by your association to the Senate Labor Committee:

1. Legislation making it an unfair labor practice for a union to refuse to bargain in good faith with a representative of the employer. You will find that that is the law today by virtue of the Taft-Hartley Act. That duty to bargain in good faith now exists on both sides of the table.

2. Legislation making it an unfair practice for a union to fail to appoint a representative with power to reach an agreement at the bargaining table. The new law makes the tests of failure to bargain in good faith apply equally to unions and employers. If the Labor Board construes the act, as it has in the past, to make the failure to appoint a representative with such authority as evidence of bad faith bargaining, the same will be true of the union's failure in such respect.

3. Legislation guaranteeing to the employer the right of "free speech." You will find that the Taft-Hartley law provides for such right. Opponents of the new law waxed eloquent on this provision on the floor of the Senate. It was said that since the Constitution guaranteed such right, it was downright silly for the Congress to write it into legislation. But was it? The courts in construing the Wagner Act have said that the Labor Board couldn't find a violation where an employer merely told his employees what he thought about the union and advised them to stay out of it. However, such an employer who later discharged any employee active in the union was always confronted with that prior free speech of his as showing an antiunion motive for the discharge, and was ordered to reinstate the man with back pay. While he had the right of free speech, he used it at his peril. It was given to him with one hand and taken away with the other. Under the new law, such statements on the part of an employer cannot even be admitted as evidence unless they contain a threat or a promise.

4. You recommended that it be made an unfair labor practice for one union to cause an employer to violate an existing and valid contract with another union. On this one, Congress went one step further. It not only made it an unfair labor practice, but it also gave the right of action for damages to employers injured thereby and also ordered the Labor Board to obtain a temporary injunction in such cases while it was disposing of them. I don't believe anyone can justify the jurisdictional strike or secondary boycott. International unions for several generations have been trying to settle jurisdictional disputes without success. Now the Government is going to take a hand. We, on the study committee, are especially interested in the success of the new law in this field. If the procedure provided for doesn't commence their elimination, we will have to devise new procedures.

5. You requested that it be made an unfair labor practice for a union to coerce an employer in the selection of his representative, and section 8 (b) (1) of the new act so provides. Under the new law, I believe it would be a violation for a union to restrain or coerce an employer in the selection of a trade association

to bargain for him, or in the selection and retention of a foreman to handle his grievances.

6. Your association also requested Congress to do something about foremen. It was your suggestion that a foreman should not be required to join a union as a condition of employment, and unions should not have a right to discipline foremen. The framers of the new law were convinced that if foremen are to represent management, they should be a part of management and not of the union, and, in any event, not belong to the same union as the rank and file of employees. The experience of the National Labor Relations Board, in which supervisory employees were held first not to be entitled to benefits of that act, and later entitled to the benefits, provided they were in units separate from production employees, has demonstrated that it is impossible to have a union supervisory employee truly independent of other unions. Congress has, therefore, provided that supervisory employees are not employees within the meaning of the National Labor Relations Board Act. There is no prohibition against foremen joining unions but the employer is not required to recognize them. He can discipline them if they do join, and he would be under no compulsion to recognize and bargain with a union which includes foremen in its unit. Foremen are thus in the same position as all employees prior to passage of the Wagner Act of 1935.

7. Your association made two other requests, both of which have to do with the subject debated in Congress and described as industry-wide bargaining. You recommended that it would be an unfair labor practice for an international union to force its own whole body of laws and regulations into a contract, and you also recommended that only the workers in the plant involved should have the vote to approve or reject agreements. The hearings conducted by the Senate committee this year made out a good case for some regulation of compulsion by international unions of their constituent locals. The committee was given hundreds of examples of cases where the employer and the local union were in complete agreement as to the terms of a new contract but were still called on strike because some provision insisted upon by the international union was omitted; thus the local could not contract for a 15-cent-an-hour increase if the international union had decided on a national pattern of 16 cents. Union witnesses admitted this practice. Two suggested remedies were offered on the floor by Senator Ball, one of which made it an unfair labor practice for an international union to attempt to coerce or compel a constituent local to include or omit some provision from its contract. That amendment also required the National Labor Relations Board to certify the local union in all cases. It was the thought of the framers of this amendment that if autonomy could be returned to the local union, a great step would be taken toward correcting the monopolistic situation which often develops under industry-wide bargaining. The amendment did not require the local union to exercise its autonomy; it merely gave it a right to do so if it chose. The other amendment proposed by Senator Ball would have prohibited industry-wide bargaining by confining bargaining to a metropolitan district or county. Both amendments were defeated on the floor of the Senate.

The Printing Industry of America, therefore, had a pretty good batting average on the success of its proposed amendments. You made eight suggestions. Six became law and the other two are in the field of industry-wide bargaining, and we are not through with that subject. It has priority on the agenda of the study committee. Why was your batting average so high? Because your recommendations were reasonable. You merely wanted to rebalance the scale, and Congress had the same idea.

#### STUDY COMMITTEE

Your secretary requested that I tell you about the study committee, why it was created and what it proposed to do.

Several bills were introduced at the beginning of the last session of Congress providing for a study of the entire field of labor relations, with no legislation on this subject to be passed until such a study had been completed. The majority of the Senate, however, was of the opinion that immediate legislation was necessary, and that it might be profitable to have a continuing study both as to the effect of that legislation and of the need for further legislation. Nothing of this nature has been previously attempted by Congress. True, the House of Representatives has had numerous investigating committees which have investigated some specific labor problem, such as the Smith committee, which investigated the National Labor Relations Board; and several small subcommittees which are now investigating rackets, communism, etc., in unions. This committee is a horse of a different color. It is a committee created by statute, and the breadth of its studies has in

no way been limited. Its work will be completely objective. It is not a case of knowing an evil that exists, having a remedy, and then going out to dig up facts to support and show justification for the remedy.

A somewhat similar approach has been carried out for a number of years here in New York State. A bipartisan committee was created to make a continuous study of labor relations in this State and other States. The New York State study committee has, from time to time, made recommendations to the State legislature, and almost without fail, its recommendations have later been written into the laws of the State.

#### WHAT ARE WE DOING?

Staff work has already commenced on five subjects. Briefly, they are:

Study of labor relations in a selected number of plants.

Observation of the Taft-Hartley law in all of its phases.

Investigation of industry-wide bargaining.

Investigation of welfare funds.

Study of union constitutions and organization, and the same with respect to employer associations.

In choosing a number of plants for a particular study, the committee has attempted to secure diversification. We want to study a typical company in rubber, in steel, in coal, in glass, in clothing, in shipping, etc. The names of the companies selected for such study are not disclosed until the study has been completed. In making these studies, we have been successful in obtaining the cooperation of both union and management. We believe that such studies will be of great assistance in any hearings which may be conducted. In the past, standing committees of both the Senate and the House have annually held hearings on labor, and various top officials from both industry and labor have testified. In too many cases, their testimony represents a summary of what the board of trustees of the company or the union have decided should be told the Congress. Too often the witness cannot answer questions because he is voicing the opinions and facts given him by many others rather than his own personal observations. We believe that by staff work in advance of hearings, such hearings can be made more productive of facts and give to the members of the committee a better understanding of how collective bargaining works and where it breaks down. We hope to study some 15 to 20 companies.

I might mention the first study we made. It was over in Passaic, N. J., at Botany Worsted Mills. It was a good one to study. It would be hard to find a company which more strongly resisted unionization. Now it would be hard to find one in which labor-management relations were better. We were especially interested in the school on grievance handling and contract interpretation. The course of study was prepared jointly by management and the union, and it is attended by union stewards as well as foremen.

Personally, I consider the study committee's job of watching the operation of the Taft-Hartley law to be its most important function. It involves a day-to-day observation of how the new law is being administered by the various departments, bureaus, and agencies entrusted with its administration.

Title III of the new law creates action for damages for violation of its provisions with respect to jurisdictional strikes and secondary boycott. It gives jurisdiction to the Federal courts for suits in violation of contract. The study committee is keeping a file on every such suit instituted in any place in the United States. We want to know if there are any successful defenses which were not considered in the framing of that portion of the law. In other words, are there any bugs in it?

The committee heard considerable testimony of actual instances of secondary boycotting. Let me cite two which were of particular interest to the committee. In Cleveland, Ohio, a manufacture of electric equipment had an NLRB election to determine the choice of his employees. Both the CIO and the AFL were on the ballot. The CIO won. His equipment was of a type which requires installation, and in that field the AFL is the only union in the picture. The AFL refused to install his equipment because it was not made by the AFL. The manufacturer was required by law to bargain with the CIO. If he did, he could not sell his products. The last time we heard anything about it, he was making metal kitchen stools.

Another example is a New York City situation where local 3 of the A. F. of L. Electrical Workers refuses to install any electrical equipment unless the equipment has been made by employees of the same local. In other words, it will



not install electrical equipment purchased outside New York City, since local 3 is a New York City local. It will not install such equipment even if it is made by a sister local of the electrical workers. The only exception is if the local is permitted to completely dismantle the equipment and rewire it, then it will install it. The committee will observe very closely the first suits involving this type of situation. The committee wants to know whether it has remedied the abuses it was seeking to meet.

The Department of Justice must enforce the restrictions with respect to political contributions and expenditures, and also prosecute any violations of the welfare fund restrictions. The committee will watch very closely the activities of that department in these fields—not with a view of telling Justice how to prosecute violations, but in order to keep the Congress fully informed as to how the new legislation is operating.

The National Labor Relations Board has by far the bulk of the administration of the new law, and the committee will therefore examine very closely its activities. The committee has met with the full Board and its general counsel on two occasions. When my committee last met, I was able to report to it on all controversial cases before the Board, report on changes in Board personnel, on policy matters decided by the Board, and on the work of the Board in general. I would expect that as the Board begins to process new cases arising under the law, we will hear many, many complaints. I hope that the committee does not get too many of that type of complaint which is always made by the losing party in any lawsuit. If, however, the law is being maladministered, we are going to investigate it and will not hesitate to hold hearings on it.

I have already referred to the subject of industry-wide bargaining. We are examining bargaining in those industries where it exists—coal, steel, glass, clothing, maritime, meat packing, and trucking. We want to know its history, the procedures followed, the types of agreements reached, and the effect on labor relations, and, above all, the effect on the national economy.

The Taft-Hartley law provides restrictions on welfare funds, such as joint control; it specifically limits the purposes to which the money supplied by the employer can be applied. It also provides for annual audits, and in other ways tries to safeguard the rights of the individual worker in such funds. These provisions were borrowed from the Case bill of last year, which failed to pass over the President's vote. Probably John L. Lewis' demand for a union-controlled welfare fund at the time the Case bill was being considered had much to do with its being written into that law. It is interesting to note that in the miners' new contract every provision of the Taft-Hartley law with respect to welfare funds has been followed to the letter. But, like industry-wide bargaining, welfare funds are a subject about which the committee desires more information. The staff of the committee is collecting and analyzing the many union contracts which include such provisions. If any of you have such contracts we would be glad to hear from you.

I wish I could conclude by telling you what the study committee has learned to date, but it is too early. We have had staff investigators looking into some disputes, and we are studying labor relations in various plants. We have been watching the administration of the new law by the various departments and agencies affected.

I would like, however, to make a few general comments from my own observations. The new law is working. To date it is being well administered by the governmental agencies charged with its enforcement. Of course, the controversy over the filing of non-Communist affidavits by the officers of the A. F. of L. and the CIO has delayed use of the services of the National Labor Relations Board by the big unions for 2 months. That has now been resolved. A couple of weeks ago the National Labor Relations Board released some statistics on its first 5 weeks of operation under the new law. Some 400 charges had been filed. Of these 329 were filed against employers, while only 71 were against labor organizations. Remember that this was during a period when unions in general could not file charges since their officers had not filed the affidavits. Do not these figures indicate two things? First, that employers are not rushing in to take advantage of the new law and, second, that the heart of the old Wagner Act is still there and being used.

There has been considerable talk of bypassing of the law of contracts wherein the employer renounces the right to sue the union for strikes and breach of contract. In those cases, however, the employer has received something in return. Take the International Harvester contract, for example. It provides that in case

of a wildcat strike the union will immediately post on the bulletin boards a notice to its members to ignore the picket lines, to not support the strike, and a request that the strikers return to work. Anyone familiar with labor relations must know that such a provision is worth many times more than a right to sue for damages. As a preventive measure against these "quickie" strikes, such provisions should be much more effective in preventing them.

Sometime ago I spoke at a meeting of your national association at French Lick, Ind. That was right after the ITU had publicly announced a policy of not signing collective-bargaining contracts. I made the prediction that it would be unsuccessful in its device to escape responsibility under the new law. Perhaps that statement had something to do with a resolution offered for my removal as chief counsel of the study committee. Let me say again what I said at French Lick. We are but repeating the history of 1936, when employers sought to evade and fought the Wagner Act with every power at their command. The new law seeks to prevent unfair practices by unions. Unions will be just as unsuccessful as employers in their attempts to escape responsibility. It is the law of the land.

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